

**Independent School Guide:  
General Information for  
Vermont Independent Schools  
Approved Tutorials & Distance Learning Schools  
Pregnant & Parenting Programs  
State-operated Facilities**

**January 2005**

**Vermont Department of Education  
Independent School Approval Program  
(802) 828-5414**

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# **General Introduction For Vermont's Independent Schools**

The Vermont Legislature and the Vermont State Board of Education have consistently encouraged the development of strong independent schools. Indeed, the State Department of Education, State Board, Legislature and many citizens cooperated in 1988-89 in rewriting 16 V.S.A. § 166. These new changes became effective as of July 1, 1990.

Current Vermont law provides two choices for independent schools. Approved independent schools make application according to 16 V.S.A. § 166 and Vermont State Board rules 2220 - 2225.11. After a site visit, recommendations are given to the State Board of Education. Recognized independent schools present information to the Commissioner of Education as provided for in 16 V.S.A. §166 (c). Recognized independent schools are not subject to approval by the Vermont State Board of Education.

Additionally, statute provides for tutorial programs, distance learning schools, and programs for pregnant and postpartum pupils.

At present there are a number of independent schools that reflect the variety of needs and educational philosophies that exist in the state. It is through this unique network that special needs and educational alternatives are able to flourish. The Vermont State Board of Education views these schools as an important element of our educational system offering learning opportunities to students in Vermont.



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## **APPROVED INDEPENDENT SCHOOLS**

Persons seeking approval for an independent school should arrange to meet with a representative of the Department while plans for the school are still in a formative stage. At that time the particulars of the approval process and the form of written application required will be reviewed carefully to insure that the applicant fully understands what should be done and how it should be accomplished. The application process takes approximately 6-8 months. If possible, a meeting should be arranged before commitments are made to lease or purchase a site and/or buildings for the school. If a prospective site has been found, the initial meeting should include a visit to that location. To arrange such a meeting, or request further information on the independent school approval process, call or write:

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## STATUTES RELATING TO APPROVED INDEPENDENT SCHOOLS AND DISTANCE LEARNING SCHOOLS

### Definitions

#### 16 V.S.A. § 11

- 20) "Approved Independent School" means an independent school which is approved under 16 V.S.A. § 166.

### Approved Independent Schools

#### 16 V.S.A. § 166

- a) An independent school may operate and provide elementary education or secondary education if it is either approved or recognized as set forth herein.
- b) **Approved Independent School.** On application, the State Board shall approve an independent school which offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study and that it substantially complies with the Board's rules for approved independent schools. The Board's rules must at a minimum require that the school has the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any state or federal law or regulation. Approval may be granted without Vermont State Board evaluation in the case of any school accredited by a private, state or regional agency recognized by the Vermont State Board for accrediting purposes.
- 1) On application, the Vermont State Board shall approve an independent school which offers kindergarten but no other graded education if it finds, after opportunity for hearing, that the school substantially complies with the Board's rules for approved independent kindergartens. The Vermont State Board may delegate to another state agency the authority to evaluate the safety and adequacy of the buildings in which kindergartens are conducted, but shall consider all findings and recommendations of any such agency in making its approval decision.
- 2) Approvals under this section shall be for a term established by rule of the Board but not greater than five years.
- 3) An approved independent school shall provide to the parent or guardian responsible for each of its pupils, prior to accepting any money for that pupil, an accurate statement in writing of its status under this section, and a copy of this section. Failure to comply with this provision may create a permissible inference of false advertising in violation of T.13, V.S.A. § 2005.
- 4) Each approved independent school shall provide to the Commissioner on October 1 of each year the names and addresses of its enrolled pupils. Within seven days of the

termination of a pupil's enrollment, the approved independent school shall notify the Commissioner of the name and address of the pupil. The Commissioner shall forthwith notify the appropriate school officials as provided in § 1126 of this title.

- 5) The Vermont State Board may revoke or suspend the approval of an approved independent school, after opportunity for hearing, for substantial failure to comply with the minimum course of study, for failure to comply with the Board's rules for approved independent schools, or for failure to report under subdivision (b)(4) of this section. Upon revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in an approved public school, approved or recognized independent school or approved home instruction program.
  - 6) This subdivision applies to an independent school located in Vermont which offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication or other means and which, because of its structure, does not meet some or all the rules of the state board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the state board for approved independent schools which can be applied to the applicant school and any other standards or rules adopted by the state board regarding these types of schools. A school approved under this subdivision shall not be eligible to receive tuition payments from public school districts under chapter 21 of this title. However, a school district may enter into a contract or contracts with a school approved under this subdivision for provisions of some education services for its students.
- e) The board of trustees of an independent school operating in Vermont shall adopt harassment policies, establish procedures for dealing with harassment of students, and provide notice of these as provided in section 565 of this title for public schools, except that the board shall follow its own procedures for adopting policy.
  - f) An approved independent school which accepts students for whom the district of residence pays tuition under chapter 21 of this title shall bill the sending district monthly for a state-placed student and shall not bill the sending district for any month in which the state-placed student was not enrolled.
  - g) An approved independent school which accepts students for whom the district of residence pays tuition under chapter 21 of this title shall use the assessment or assessments required under subdivision 164(9) of this title to measure attainment of standards for student performance of those pupils. In addition the school shall provide data related to the assessment or assessments as required by the commissioner.

### **Oath** **16 V.S.A. § 12**

A superintendent, principal or teacher in a public school or the state, or a professor, instructor or teacher who will be employed hereafter by a university, or college in the state, which is supported in whole or in part

by public funds, or in an independent school or other educational institution accepted by the State Department of Education as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the constitution of the United States of America, the constitution of the State of Vermont, and the laws of the United States and the State of Vermont; provided however, that such oath shall not be required of any person so employed who is a citizen of a foreign country.

Teachers and administrators in all schools, public, approved, or recognized independent, are required to subscribe to an oath to support the constitutions and laws of the United States and the State of Vermont. Printed forms for the teachers' oath may be obtained from the Department of Education (see copy at end of this booklet).



## **STATE BOARD RULES FOR APPROVED INDEPENDENT SCHOOLS**

### **Initial Approval**

Section 2225 of the Vermont State Board of Education regulations outlines the general contents of the written application which must be prepared on behalf of an independent school for which Board of Education approval is sought. The application process takes approximately 6 months. The written application must be received thirty (30) days prior to the scheduled site visit.

Upon receipt of an application, a review committee will be formed to review the application, visit the school, and meet with the administration and staff. This team will include people who have the appropriate educational background in the areas the school emphasizes.

The review committee will make a recommendation to the State Board of Education. This usually occurs at least one month after the site visit. The recommendation is acted upon as part of the Board's consent agenda at a monthly Vermont State Board meeting. At the time of the vote, this action may not be discussed in the open session of the meeting.

### **Re-approval**

There is a maximum of a five-year approval that may be given after the initial approval for new schools. Reapproval is done by submitting a new application as outlined in 16 V.S.A. § 166 and section 2225 of the Vermont State Board of Education rules. Schools may also be approved by those accrediting agencies listed in Vermont State Board rule number 7320.

The application process is initiated by the State of Vermont. Six months prior to the end of the approval period the Department will mail an information packet to the school. A site visit appointment will be made and the application **MUST** be received 30 days prior to the site visit. The re-approval process continues as in the initial approval process.

## State Board

### Rule #:

#### **2220 Approval of Independent Elementary and Secondary Schools Statement of Purpose**

The purpose of independent school approval rules is to assure acceptable educational opportunities for students enrolled in Vermont's independent schools.

#### **2221 Statutory Authority:** 16 V.S.A. § 166 and 16 V.S.A. § 2958(e)

#### **2222 Procedure.** Every person or entity desiring to operate an approved independent elementary or secondary school shall apply in writing to the Commissioner of Education. Independent schools which are recognized as provided for in 16 V.S.A. § 165 (a) rather than approved are not required to comply with the procedures set forth in this section. An application shall meet the requirements of § 2225 below.

Upon receipt of an application for initial approval or renewal of approval the Commissioner shall appoint a review committee of at least two persons.

The process below (2222.1 to 2222.7) shall be followed.

#### **2222.1 Visit.** The review committee shall visit the school. To the extent possible, the visit shall be coordinated by the Commissioner with other agencies of state government which inspect such facilities.

#### **2222.2 Report.** The committee shall present a written recommendation regarding approval to the Commissioner. A copy of their recommendation shall be provided at the same time to the applicant. The applicant shall be given 30 days to respond before a recommendation regarding approval is made by the Commissioner to the State Board. The report shall contain the findings of other agencies of state government which inspect such facilities.

#### **2222.3 Review.** The Commissioner shall designate a date for action by the Board. Officials of the school shall be notified of this date.

#### **2222.4 Renewal.** Not less than six months prior to expiration of a school's approval, the Commissioner shall send an application packet and a letter notifying the school when the site visit will occur and that the completed application must be received from the school not later than 30 days prior to the scheduled site visit.

#### **2222.5 Extension.** Approval of a school completing timely application for further approval shall extend until the Board acts on further approval.

#### **2222.6 Termination.** Approval of an independent school which fails to complete timely application for further approval shall terminate on the date specified in the most recent approval action.

- 2222.7 Denial, Revocation or Suspension of Approval.** Prior to recommending denial, revocation or suspension of approval the Commissioner shall obtain the written recommendation of the Council of Independent Schools. If after receiving the Council's recommendation the Commissioner determines that denial, revocation or suspension of approval is warranted, s/he shall notify the school of the reasons for the proposed action and shall afford the school an opportunity to be heard by the Board. Approval of an independent school shall be revoked or suspended by the Board based on a finding that the school no longer meets the criteria for approval listed in section 2226.
- 2222.8 Investigations.** Reports or complaints to the Commissioner concerning matters related to the approval standards shall be investigated if it appears such action is warranted. The school shall receive notification of the complaint unless contradicted by the particular facts. A review team of at least two persons shall be appointed by the Commissioner including a member of the Council of Independent Schools. The team will conduct the investigation after initial inquiries and will inform the school of the results. Reports of drug or alcohol use shall be referred to the state's attorney for the county in which the school is located. Reports of child abuse or neglect shall be reported to the Department of Social and Rehabilitation Services. Reports concerning the safety of facilities, water supply, electricity, plumbing or waste disposal systems shall be referred by the Department to the appropriate public agency.
- 2223 Reciprocity.** Approval may be granted without committee evaluation and the approval process in the case of any school accredited by a state or regional agency recognized by the State Board for accrediting purposes. Such accrediting agencies are listed in Rule 7320 of the Board Manual of Rules and Practices. Any accreditation from a recognized accrediting agency that is valid for more than five years must be supplemented with an interim report from the accrediting agency which should be submitted to the Department of Education by the accrediting agency or the school during the last year of its five-year approval. This interim report must provide such information as is necessary to assure the State Board that the school is meeting the approval standards. If such proof of compliance with approval standards cannot be shown the school must undergo the approval process.
- 2224 Tuition From Public Funds**
- 2224.1** Tuition may not be paid from public funds to any elementary or secondary school not approved by the Board.
- 2224.2** Tuition may not be paid from public funds to any independent elementary or secondary school in Vermont for any Vermont student who has been determined eligible for special education unless the Commissioner has specifically acknowledged the school for special education purposes.
- 2224.3** In order for tuition to be paid to an independent school in another state, the school must be accredited or approved by the host state or by an accrediting agency recognized by the State Board. The State Board reserves the right to refuse payment of tuition, if after review it

determines any such school does not provide the minimum course of study, is unsafe, or does not have faculty qualified by training and experience in the instructional area in which they are assigned.

## **Application**

An application for initial approval or renewal of approval shall contain the following:

- 2225.1** The name and address of the school.
- 2225.2** A statement of the school's philosophy.
- 2225.3** A description of the school enrollment including a statement of whether it is designed to serve children with a particular disability or with disabilities generally.
- 2225.4** A description of the plan of organization for the school including its governance, faculty, and student body, and the names and addresses of the governing board.
- 2225.5** A description of the curriculum, methods of instruction, evaluation procedures and special services which the school has designed to achieve its educational objectives and to provide a minimum course of study as defined in 16 V.S.A. §906.
- 2225.6** A description of physical facilities including plant, materials and equipment and assurances that the facilities meet all applicable state and federal requirements.
- 2225.7** Evidence of compliance with local, state and federal requirements pertaining to the health and safety of pupils.
- 2225.8** Statements regarding professional staff including:
  - 2225.8.1** Professional Staff Qualifications
    - (1) A job description for each position or a statement describing training, experience and degree(s) required for each position;
    - (2) A resume, vita or description of appropriate qualifications for each current professional staff member;
    - (3) Current assignment of each professional staff member.
  - 2225.8.2** Professional Staff Development.
    - (1) A general statement of the institution's expectations for professional growth of staff.



- (2) A statement describing the school's inservice training and financial and other support given to staff for professional development; and
- (3) A description of professional development in the prior two years.

**2225.8.3 Professional Environment**

- (1) A list of staff and length of service.
- (2) A description of staff meetings.
- (3) A description of other staff duties that are not related to teaching or administrative duties.

**2225.9 Evidence of financial capacity may be shown by one of the following:**

- (1) An audit letter by a certified accounting firm from the present or prior year describing financial capacity;
- (2) A notarized letter summarizing the financial status within the present or prior fiscal year signed by the board of directors or governing body;
- (3) An audit from the present or prior fiscal year performed by a certified accounting firm; or
- (4) A statement of financial capacity of a private, state, or regional agency recognized by the State Board for accrediting purposes concerning the school's financial capacity.

**2225.10 The school calendar.**

**2225.11 Copies of publications for distribution to applicants for admission including the statement required by 16 V.S.A. §166(b)(3).**

The Board may approve an independent school if it finds that:

**2226.1 The description of the school in the approval application is accurate.**

**2226.2 The course of study offered is adequate to meet the educational purposes of the school and to provide a minimum course of study that is age and ability appropriate.**

**2226.3 The school has available support services necessary to meet the requirements of a minimum course of study and its educational purposes, including but not limited to library services, administrative services, guidance and counseling services and a system of records by which pupil progress may be assessed.**

- 2226.4** The school has classroom, laboratory, library and other facilities necessary to operate its program.
- 2226.5** The school employs professional staff who are qualified by training and experience in the areas in which they are assigned as measured by the following:
  - 2226.5.1** For teachers, a minimum of a bachelor's degree in their field of instruction or substantially equivalent time in training and experience in their field of instruction.
  - 2226.5.2** For all professional staff, relevant experience and/or training in other programs not related to teaching or administrative duties to which they are assigned.
- 2226.6** The school has an adequate program of continuing professional staff development as demonstrated in the application.
- 2226.7** The school employs a sufficient number of professional staff for the population served.
- 2226.8** The school satisfies lawful requirements relative to its facilities, fire drills, and the immunization of its pupils against disease.
- 2226.9** The school maintains a register of the daily attendance of each of its pupils and meets the requirements of law regarding the reporting of its enrollment.
- 2226.10** The school maintains an operating schedule that includes a total number of instructional hours each year which is not less than that required of a public school serving the same grades.
- 2226.11** The school has the financial capacity to carry out its educational purposes for the period of approval.
- 2227** Length of Approval. The Board may grant initial approval for a period of not more than two years, and renewal of approval for not more than five years.

## **7320      Recognized Accrediting Agencies**

Certain regional agencies have been recognized by the State Board of Education for accrediting purposes:

- 2275**    New England Association of Schools and Colleges, Burlington, Massachusetts.
- Middle States Association of Colleges and Schools/Commission on Higher Education, Philadelphia, Pennsylvania.
  - Northwest Association of Schools and Colleges, Seattle, Washington.
  - Southern Association of Colleges and Schools Commission on Colleges, Atlanta, Georgia.
  - Western Association of Schools and Colleges – Accrediting Commission for Senior Colleges, Oakland, California.
  - North Central Association of Colleges & Schools, Chicago, Illinois.
  - Office of Overseas Schools, Department of State, Washington, D.C.
  - Department of Education, Northern New England Conference of Seventh-Day Adventists, Portland, Maine.
  - Diocesan School Board, Burlington, Vermont.
  - National Association of Trade & Technical Schools, Washington, D.C. (For non-degree granting purposes only).

# STATE BOARD RULES FOR DISTANCE LEARNING SCHOOLS

## State Board

### Rules #:

- 2231**      **Approval of Distance Learning Schools**
- 2232**      **Statutory Authority:** 16 V.S.A. Section 166 (b)(6) – reference page 4
- 2233**      **Definition:** A “Distance Learning School” means an independent school which offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication or other means and which, because of its structure, does not meet some or all the rules of the state board for approved independent schools.
- 2234**      **Procedures and Standards:** The distance learning school shall meet the procedures and standards set forth in rules 2220-2227, above, which because of its structure can be applied, and the following rules:
- 2234.1**      The distance learning school’s business and administrative offices are located in Vermont and are sufficient to meet the needs of the school.
- 2234.2**      The distance learning school follows Vermont requirements for incorporation pursuant to Titles 11, 11A, and 11B of Vermont Statutes Annotated.
- 2234.3**      The distance learning school offers an educational program which is developed and assessed by staff who are other than the parents of the students and who are either employed by the school or under contract with the school.
- 2234.4**      The distance learning school has policies and procedures to:
- (1)      Enroll students who reasonably can be expected to benefit from the instruction offered by the program, and,
  - (2)      Measure student progress to ensure that students continue to benefit from such instruction.
- 2234.5**      The distance learning school has policies and procedures to answer student and parent inquiries about programs and services promptly and satisfactorily and to answer specific student academic inquiries in a timely and beneficial way.
- 2234.6**      The distance learning school has policies and procedures for informing students and parents of academic progress on a regular basis.

**2234.7**

**Tuition:**

**2234.7.1**

Tuition policies, including tuition collection practices, are written, clear, and provided to parents in advance of enrollment.

**2234.7.2**

The distance learning school had clear policies on refunds of tuition payments, when students choose not to or are unable to complete the program of instruction.

**2234.7.3**

In the event that the school closes, the distance learning school has policies for:

- (1) Tuition adjustment or refund, and
- (2) Preservation and release of student records.



# STATUTES RELATING TO APPROVED KINDERGARTENS

## Definitions

### 16 V.S.A. § 11

- 20) “Approved Independent School” means an independent school which is approved under 16 V.S.A. § 166.

## Approved Independent Schools

### 16 V.S.A. § 166

- a) An independent school may operate and provide elementary education or secondary education if it is either approved or recognized as set forth herein.
- b) **Approved Independent School.** On application, the State Board shall approve an independent school which offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study and that it substantially complies with the Board’s rules for approved independent schools. The Board’s rules must at minimum require that the school has the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any state or federal law or regulation. Approval may be granted without Vermont State Board evaluation in the case of any school accredited by a private, state or regional agency recognized by the Vermont State Board for accrediting purposes.
- 1) On application, the Vermont State Board shall approve an independent school which offers kindergarten but no other graded education if it finds, after opportunity for hearing, that the school substantially complies with the Board’s rules for approved independent kindergartens. The Vermont State Board may delegate to another state agency the authority to evaluate the safety and adequacy of the buildings in which kindergartens are conducted, but shall consider all findings and recommendations of any such agency in making its approval decision.
  - 2) Approvals under this section shall be for a term established by rule of the Board but not greater than five years.
  - 3) An approved independent school shall provide to the parent or guardian responsible for each of its pupils, prior to accepting any money for that pupil, an accurate statement in writing of its status under this section, and a copy of this section. Failure to comply with this provision may create a permissible inference of false advertising in violation of T.13, V.S.A. § 2005.
  - 4) Each approved independent school shall provide to the Commissioner on October 1 of each year the names and addresses of its enrolled pupils. Within seven days of the

termination of a pupil's enrollment, the approved independent school shall notify the Commissioner of the name and address of the pupil. The Commissioner shall forthwith notify the appropriate school officials as provided in §1126 of this title.

- 5) The Vermont State Board may revoke or suspend the approval of an approved independent school, after opportunity for hearing, for substantial failure to comply with the minimum course of study, for failure to comply with the Board's rules for approved independent schools, or for failure to report under subdivision (b)(4) of this section. Upon revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in an approved public school, approved or recognized independent school or approved home instruction program.

### **Oath** **16 V.S.A. § 12**

A superintendent, principal or teacher in a public school or the state, or a professor, instructor or teacher who will be employed hereafter by a university, or college in the state, which is supported in whole or in part by public funds, or in an independent school or other educational institution accepted by the State Department of Education as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the constitution of the United States of America, the constitution of the State of Vermont, and the laws of the United States and the State of Vermont; provided however, that such oath shall not be required of any person so employed who is a citizen of a foreign country.

Teachers and administrators in all schools, public, approved, or recognized independent, are required to subscribe to an oath to support the constitutions and laws of the United States and the State of Vermont. Printed forms for the teachers' oath may be obtained from the Department of Education (see copy at end of this booklet).



# STATE BOARD RULES FOR APPROVED KINDERGARTENS

## State Board

### Rules #:

**2270** Statutory Authority: 16 V.S.A. § 166(b)

## PROCEDURE FOR APPROVAL

**2271.1 Application.** Every person or entity seeking to operate as an approved kindergarten shall apply in writing to the Commissioner of Education

An application for approval shall contain the following:

- Name & address of the school
- A description of the school's curriculum and methods of instruction
- A description of the school's physical facilities
- A list of the school's staff and their qualifications
- The operating schedule of the school and
- A statement certifying that the school is in compliance with the Kindergarten Nursery School provisions in the Regulations for Day Care of the Social and Rehabilitation Services Department (hereinafter "SRS Kindergarten Regulations").

**2271.2 Appointment of Reviewer.** Upon receipt of an application for approval, the Commissioner shall appoint an educator to review the application and visit the school. In addition, the Commissioner shall contact SRS to determine on his or her behalf whether the school meets the "SRS Kindergarten Regulations." First priority for preview shall be given to private Kindergartens that are located in the vicinity of towns where the local school board or town has taken a formal vote to provide public supported kindergarten.

**2271.3 Review.** The appointed educator shall review the application and visit the school.

**2271.4 Report to Commissioner.** The appointed educator shall present a written recommendation regarding approval to the Commissioner. The report of the appointed educator shall incorporate the determination of SRS concerning compliance with the "SRS Kindergarten Regulations." A copy of the recommendation shall be provided at the same time to the applicant.

**2271.5 Board Recommendation.** The Commissioner shall recommend approval or disapproval for action by the State Board at their next meeting. Officials of the kindergarten shall be notified of this meeting date.

**2272 Criteria For Approval.**

The State Board shall approve a private kindergarten if it finds that:

- 2272.1** The curriculum embodies a minimum course of study, as defined in 16 V.S.A. §906, Courses of Study, with learning experiences adapted to a pupil's age and ability.
- 2272.2** The school is in compliance with state regulations pertaining to the health and safety of pupils adopted by the Department of Labor and Industry and the Department of Health. In regards to health requirements, private kindergartens located in elementary or secondary school buildings shall comply with the Environmental Health Regulations for School Houses (Chapter 5, Subchapter 3, Vermont Health Regulations). All other private kindergartens shall comply with the Environmental Health Regulations for Day Care Facilities (Chapter 5, Subchapter 14, Vermont Health Regulations).
- 2272.3** The director and teachers in the kindergarten are qualified through training or experience in:
- structuring kindergarten learning environments which enhance cognitive and social development
  - teaching skills and concepts in mathematics, language arts, science, the arts, and health which are consistent with principles of child development
  - planning and leading activities that foster social and emotional growth in young children
  - dealing with parents and family of children to ensure home support and to promote learning outside of the school or center;
  - identifying developmental delays in young children.
- 2272.4** The kindergarten maintains an operating schedule that, exclusive of time allowed for meals and recess periods, includes a total number of instructional hours which is not less than that required of a public school kindergarten. (State Board of Education Policy Manual, 1981, Section 2311.4).
- 2272.5** The facility and program meet the "SRS Kindergarten Regulations".

**2273 Additional Requirements.**

- 2273.1** Approved private kindergartens shall maintain records of attendance, health, and progress for public tuition students, in a form required by the school district and in accordance with state and federal law. These records shall be transferred to the public schools no later than July 15 after the end of the school year.
- 2273.2** The director and teachers in an approved private kindergarten shall participate in professional development activities provided by the public school district.

- 2274**     **Term of Approval.** The State Board may grant approval for a term of not more than two years. A private kindergarten must be approved prior to receiving tuition payments from a public school district.
- 2275**     **Denial, Revocation or Suspension of Approval.** Prior to recommending denial, revocation or suspension of approval to the State Board, the Commissioner shall notify the kindergarten of the reasons for the proposed action and shall afford the kindergarten an opportunity to be heard by the Board. Approval of a kindergarten shall be revoked or suspended by the Board based on a finding that the kindergarten no longer meets the criteria for approval.



## **STATUTES RELATING TO TUTORIAL PROGRAMS**

### **Definitions**

#### **§11**

- 27) “Tutorial program” means education provided to a pupil who is placed in a short-term program for evaluation and treatment purposes.

### **16 V.S.A. §828**

#### **Tuition to approved schools, age, appeal**

A school district shall not pay the tuition of a pupil except to a public or independent school or tutorial program approved by the state board, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

## **STATE BOARD RULES FOR TUTORIAL PROGRAMS**

### **State Board**

#### **Rules #:**

2230 Approval of Tutorial Programs: Statutory authority 16 V.S.A. §828.

2230.1 Definition: Tutorial program means education provided to a pupil who is placed in a short term program that is not administered by a school district. The purposes of the program is to provide evaluation and/or treatment. This does not include home based tutorials, programs operated by a public school or collaborative, or a program of an independent school that has been approved under 16 V.S.A. §166. The average length of stay for students in a tutorial program shall be not more than six months. The commissioner may waive the average length of stay time period for individual programs, based upon needs of the students served by the program.

2230.2 Procedures for Approval:

2230.2.1 Application shall include the following:

- (1) Name, address, telephone number of the tutorial program,
- (2) Name of the Chief Executive Officer or contact person,
- (3) A statement of the tutorial program’s purposes and objective,
- (4) A description of the tutorial program enrollment including a statement of who designed to serve,
- (5) A description of the plan of organization for the tutorial program and
- (6) A tutorial program calendar.

- 2230.2.2 Review: Upon receipt of an application for approval, the Commissioner shall appoint a committee of at least two persons to review the application and visit the tutorial program.
- 2230.2.3 Report to the Commissioner: The appointed committee shall present a written recommendation regarding possible approval to the Commissioner. A copy of the recommendation shall be sent to the tutorial program. The applicant shall be given at least 30 days to respond before a recommendation regarding approval or disapproval is made by the Commissioner to the State Board of Education.
- 2230.2.4 Board Action: The Commissioner shall recommend approval or disapproval for action by the State Board at their next meeting. Officials of the tutorial program shall be notified of this meeting date.
- 2230.2.5 Term of Approval: The State Board may grant approval for a term of not more than two years. The tutorial program must be approved prior to receiving tuition payments from a public school district.
- 2230.2.6 Renewal: Not less than three months prior to expiration of a tutorial program's approval, the Commissioner shall send an application packet and a letter notifying the program when the site visit will occur. The completed application must be received from the tutorial program not later than 30 days prior to the scheduled site visit.
- 2230.2.7 Denial, Revocation or Suspension of Approval: Prior to recommending denial, revocation or suspension of approval to the State Board of Education, the Commissioner shall notify the tutorial program of the reasons for the proposed action and shall afford the tutorial program an opportunity to be heard by the Board. Approval of a tutorial program shall be revoked or suspended by the Board based on a finding that the tutorial program no longer meets the criteria for approval.
- 2230.3 Criteria for Approval: In order for a tutorial program to obtain approval from the State Board of Education, the program shall meet both the general and special education requirements in the following areas:
  - 2230.3.1 The instruction and methods of instruction offered are age and ability appropriate for the student, and are coordinated with the student's responsible school district as set forth in §2230.3.10 below.
  - 2230.3.2 The tutorial program has sufficient facilities and materials or access to other facilities and additional materials as necessary to provide an appropriate education.
  - 2230.3.3 The tutorial program's facilities and operation comply with local, state and federal requirements pertaining to the health and safety of students.

- 2230.3.4 The tutorial program employs an adequate number of professional staff for the population served and these staff members are qualified by training and experience in the areas in which they are assigned.
- 2230.3.5 Teachers providing or supervising the provision of special education have licensure and endorsement as would be required for the equivalent work in a Vermont public school.
- 2230.3.6 All professional staff have relevant experience and/or training in the duties to which they are assigned.
- 2230.3.7 The tutorial program maintains a register of the daily attendance of each of its pupils and reports the attendance to the responsible school district.
- 2230.3.8 The tutorial program maintains an operating schedule that includes instruction for no less than 10 hours per week unless inconsistent with medical and/or educational recommendations. The operating schedule must be sufficient to ensure that the instructional services address the individual needs of a student with disabilities and are consistent with the student's IEP.
- 2230.3.9 The tutorial program has the financial capacity to carry out its educational purposes for the period of approval.
- 2230.3.10 The tutorial program coordinates educational services with the responsible school district, including credit for coursework for high school and coordinates with other responsible agencies such as Social and Rehabilitative Services, Community Mental Health Centers, and Family- Parent Child Centers by:
  - 2230.3.10.1 Contacting the responsible school district(s) (see 16 V.S.A. §1075) in order to access school records and determine the special education status of the student;
  - 2230.3.10.2 Reviewing the IEP, the student's needs and its own ability to implement the IEP;
  - 2230.3.10.3 Making a formal referral for a special education evaluation to the responsible school district, if when receiving a student, he/she is suspected of having a disability;
  - 2230.3.10.4 Maintaining educational records and disclosing them to the responsible school district and the student's parents, unless restricted by statute, court order or other legally binding document specifically revoking those rights;
  - 2230.3.10.5 Participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services;
  - 2230.3.10.6 Implementing IEPs; and
  - 2230.3.10.7 Providing prior notice to the responsible school district regarding the need for a change in a student's program or placement, including long-term suspension or expulsion.

2230.3.11 In order to obtain approval, a tutorial program shall meet special education standards that apply to state and local education agencies. This shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate, in at least the following areas:

- (1) Admissions
- (2) Discipline and
- (3) Significant change in placement.

2230.4 Rate Approval for Tutorial Programs.

2230.4.1 Each tutorial program shall annually report its rates for tuition to the Commissioner on a form prescribed for that purpose.

2230.4.2 The rates that a tutorial program charges for tuition, related services and room and board shall be reasonably related to the actual costs of the services provided. Reasonable relationship shall be determined by utilizing generally accepted accounting principles, such as those set forth in the, "Handbook (11) for Financial Accounting of Vermont School Systems."

2230.4.3 The Commissioner shall review each tutorial program's annual rate report. If the Commissioner concludes that a tutorial program's rates are not reasonably related to the services provided, the Commissioner shall make a determination as to the maximum rate that public schools and the State Department of Education would pay to the tutorial program for those services and offer that tutorial program an opportunity for explanation regarding why the maximum rate the Department would pay is not adequate. If the explanation is not satisfactory, the Commissioner shall refer the matter to the State Board of Education.

2230.4.3.1 Upon such referral by the Commissioner, the State Board of Education shall conduct a formal proceeding in accordance with the requirements of Rule 1230, et seq.

2230.4.3.2 The State Board of Education's determination shall be final.



# **STATUTES AND STATE BOARD STANDARDS FOR APPROVED EDUCATIONAL PROGRAMS**

## **Definitions**

### **16 V.S.A. §1073(b)**

- (b) No legal pupil, including a married, pregnant or postpartum pupil, shall be deprived of or denied the opportunity to participate in or complete an elementary and secondary public school education. Notwithstanding the provisions of sections 822 and 1075 of this title, for reasons related to the pregnancy or birth, a pregnant or postpartum pupil may attend any approved public school in Vermont or an adjacent state, approved independent school in Vermont, or other educational program approved by the state board. The commissioner shall pay the educational costs for a pregnant or postpartum pupil attending a state board approved educational program in a 24-hour residential facility for up to eight months after the birth of the child. The commissioner may approve extension of payment of educational costs based on a plan for reintegration of the student into the community or for exceptional circumstances as determined by the commissioner. The district of residence of a pupil in a 24-hour residential facility shall remain responsible for coordination of the pupil's educational program and for planning and facilitating her subsequent educational program.

## **State Board Standards:**

### **I. Purpose**

The purpose of these standards is to establish consistent criteria for Vermont State Board of Education evaluation and approval of programs which are neither approved public or independent schools but which provide educational services to pregnant or postpartum pupils pursuant to 16 V.S.A. §1073(b).

### **II. Definitions**

“Program is an “other educational program” under 16 V.S.A. §1073(b) which has applied for or received State Board approval.

“Minimum course of study” is the course of study defined in 16 V.S.A. §906.

### **III. Procedure**

#### **A. Application**

A program shall apply for approval by completing an application form provided by the Vermont Department of Education. The form shall require the applicant, at a minimum, to describe the proposed student body, the program's facilities, the administration of the program, the faculty and its qualifications, the course of study offered, and the manner in which services will be provided in collaboration with the school districts of residence of the students. The application shall be

submitted to the Vermont Department of Education's consultant for home study and independent schools.

#### B. Review

The Deputy Commissioner of the Vermont Department of Education shall appoint a review team of no less than two persons, at least one of whom shall be a Department of education employee. The team shall review the application, and if necessary, seek additional information and/or visit the program. The team shall then report to the Commissioner of the Vermont Department of Education within sixty days of receipt of the application unless further time is required and the reasons therefor explained in writing to the applicant. The report shall contain a recommendation that the program be approved, not approved or conditionally approved. If the recommendation is that the program be conditionally approved or not be approved, the report shall contain recommendations as to what corrections are needed before full approval could be recommended. The report shall also be submitted to the program which shall have fifteen days to respond.

Following such response, the Commissioner shall make a recommendation to the State Board of Education. The program shall have an opportunity to be heard before the State Board of Education. A term of approval may be for a period of no more than three years. The process for reapproval shall be the same as for approval.

After approval, the program shall furnish such information as is requested from time to time by the Commissioner and, on its own initiative, shall inform the Commissioner in an annual report on the anniversary of its approval of significant changes in the program. If the Commissioner has reason to believe that the program no longer meets the standards for approved programs, he or she may initiate a review which shall follow the same procedures as a review for approval. In such a case, the review team shall recommend to the Commissioner that the program continue to be approved, that the program's approval be terminated, or that the program must meet certain conditions by a specified date to continue its approval. If the Commissioner finds that the program's approval should be terminated or conditioned, he or she shall recommend such action to the State Board. The program shall have an opportunity to be heard before the State Board.

### IV. Standards for Approval

#### A. Nature of the Program

1. The program shall offer the minimum course of study or a specified portion thereof to each student based upon a written agreement with the school district of the student's residence.
2. The program shall offer basic education, technical education or remedial and compensatory education services or any combination thereof.
3. The program's educational purpose shall be clearly stated.

B. Course of Study

The course of study offered shall be adequate to meet the educational purposes of the program and appropriate of the age and ability of the students.

C. Support Services

The program shall have available the support services necessary to meet the requirements of its course of study and its education purposes, including but not limited to library services, administrative services, guidance and counseling services and a system of recordkeeping by which pupil progress may be assessed.

D. Facilities

The program shall have classroom, laboratory, library or other facilities necessary and appropriate to provide its educational services. Facilities in which educational services are provided shall meet all applicable state and federal health and safety standards.

E. Professional Staff

The program shall employ professional staff who are qualified by training and experience in the educational areas in which they are assigned and in sufficient number to carry out the educational purposes of the program.

F. Administrative Services and Rates

The program shall have the capability to generate accurate billing to school districts based upon the actual time spent in educational programs by the students. Rates for educational services shall be reasonably related to the actual costs of providing such services.

G. Collaboration with Local School Districts

The program shall collaborate with the school district of the student's residence in the coordination and planning of the student's educational program and eventual return to the district. The written agreement required for each student by paragraph IV(A) above shall also include agreement of such items as the course credits that will be transferable to the school district of the student's residence and the rates for educational service.

H. Special Education

With respect to special education services, the program shall cooperate with the student's school district which shall provide such services directly or through contract with a private or public educational agency.



# STATUTES FOR RECOGNIZED INDEPENDENT SCHOOLS

## Definitions

### 16 V.S.A. § 11

- 19) "Recognized Independent School" for any school year means an independent school which meets the requirements for recognized independent schools in §166 of this title and which is not a home study program.

c) **Recognized Independent Schools.**

### 16 V.S.A. § 166

Upon filing an enrollment notice a recognized independent school may provide elementary or secondary education in Vermont. The enrollment notice shall be on a form provided by the Commissioner and shall be filed with the Commissioner no earlier than three months before the beginning of the school year for the public schools in the town in which the applicant proposes to locate.

- 1) The enrollment notice shall contain the following information and assurances:

- A) a statement that the school will be in session an amount of time substantially equivalent to that required for public schools;
- B) a detailed description or outline of the minimum course of study for each grade level the school offers, and how the annual assessment of each pupil will be performed; and
- C) assurances that:
  - i) the school will prepare and maintain attendance records for each pupil enrolled or regularly attending classes;
  - ii) at least once each year the school will assess each pupil's progress, and will maintain records of that assessment, and present the result of that assessment to each student's parent or guardian;
  - iii) the school's educational program will include the minimum course of study set forth in §906 of this title; and
  - iv) the school will have teachers and materials sufficient to carry out the school's educational program; and
  - v) the school will meet such state and federal laws and regulations concerning its physical facilities and health and safety matters as are applicable to recognized independent schools.

- 2) If the Commissioner has information that creates significant doubt whether the school would be able to meet the requirements set forth above, the Commissioner may call a hearing. At the hearing, the school shall establish that it can meet the requirements for recognized

independent schools. Failure to do so shall result in a finding by the Commissioner that the school must take specified action to come into compliance within a specified time frame or the children enrolled must attend another recognized independent school, approved independent or public school, or home study program, or be declared truant unless absent with legal excuse.

- 3) A recognized independent school shall provide to each student's parent or guardian a copy of its currently filed statement of objectives and a copy of this section. The copy shall be provided when the pupil enrolls or before September 1, whichever comes later. Failure to comply with this subsection may create a permissible inference of false advertising in violation of §2005 of Title 13.
- 4) A recognized independent school shall renew its enrollment notice annually. An independent school shall be recognized for a period not to exceed five years by the Commissioner without need for filing an annual enrollment notice if:
  - A) it is recognized by an organization approved by the Vermont State Board for the purpose of recognizing such schools, or
  - B) it is accredited by a private, state or regional agency approved by the Vermont State Board for accrediting purposes. Nothing contained herein shall be construed to prohibit the Commissioner from initiating a hearing under this section.
- 5) If the Commissioner has information that creates significant doubt about whether the school, once in operation, is meeting the requirements for recognized independent schools, the Commissioner may call a hearing. At the hearing, the school shall establish that it has met the requirements for recognized independent schools. Failure to do so shall result in a finding by the Commissioner that:
  - A) the school may not be in operation for the remainder of the school year and that the children are truant unless absent with legal excuse or enrolled in an approved public or independent school, another recognized independent school or a home study program; or
  - B) the school must take specified action to come into compliance within a specified time frame or the school will not be permitted to operate for the remainder of the school year.
- 6) Each recognized independent school shall provide to the Commission on October 1 of each year the names and addresses of its enrolled pupils. Within seven days of the termination of a pupil's enrollment, the recognized independent school shall notify the Commissioner of the name and address of the pupil. The Commissioner shall forthwith notify the appropriate school officials designated in §1126 of this title.

- 7) After the filing of the enrollment notice or at a hearing, if the school is unable to comply with any specific requirements due to deep religious conviction shared by an organized group, the Commissioner may waive such requirements if he or she determines that the educational purposes of this subsection are being or will be substantially met.
- e) The board of trustees of an independent school operating in Vermont shall adopt harassment policies, establish procedures for dealing with harassment of students and provide notice of these as provided in section 565 of this title for public schools, except that the board shall follow its own procedures for adopting policy.

### **Oath**

#### **16 V.S.A. § 12**

A superintendent, principal or teacher in a public school or the state, or a professor, instructor or teacher who will be employed hereafter by a university, or college in the state, which is supported in whole or in part by public funds, or in an independent school or other educational institution accepted by the State Department of Education as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the constitution of the United States of America, the constitution of the State of Vermont, and the laws of the United States and the State of Vermont; provided however, that such oath shall not be required of any person so employed who is a citizen of a foreign country.

Teachers and administrators in all schools, public, approved, or recognized independent, are required to subscribe to an oath to support the constitutions and laws of the United States and the State of Vermont. Printed forms for the teachers' oath may be obtained from the Department of Education (see copy at end of this booklet).





## **ENROLLMENT NOTICE FORMS RELATING TO RECOGNIZED INDEPENDENT SCHOOLS**

### **Reporting Process**

Recognized Independent Schools submit a yearly enrollment notice to the Commissioner of Education. Recognized Independent schools must file the enrollment notice forms provided by the Commissioner no earlier than three months before the beginning of the school year for the public schools in the town in which the school proposes to locate.

The forms include:

- A. The School Enrollment Notice Cover Sheet
- B. Statement of Objective
- C. Statement of Minimum Course of Study
- D. Statement of Assessment Procedures
- E. A Signed Statement of Assurances
- F. The Teacher Oath

Some of the assurances given in letter E refer to those sections of 16 V.S.A. § 166 that must be carried out by the school. Others refer to those health, safety, and physical facility requirements of the regional department officials. Please reference pages 41-56 for these sections.

**Recognized Independent School forms are at the end of this booklet.**



# COUNCIL OF INDEPENDENT SCHOOLS

## 16 V.S.A. §166(d)

**1) Council of Independent Schools.** A council of independent schools is created consisting of eleven members, no fewer than three of whom shall be representatives of recognized independent schools. The Commissioner shall appoint nine members from within the independent schools' community. The Commissioner shall appoint two members from the public-at-large. Each member shall serve for two years and may be reappointed for up to an additional two terms, except that five of the first eleven appointments shall be for an initial term of one year. The council shall hold its organizational meeting before March 1, at the call of the Commissioner and shall adopt rules for its own operation. A chair shall be elected by and from among the members. The duties of the council shall include advising the Commissioner on policies and procedures with respect to independent schools. No hearing shall be initiated before the Vermont State Board or by the commissioner under this section until the recommendations of the council have been sought and received. The recommendations of the advisory council, including any minority reports, shall be admissible at the hearing. - Amended 1989, No. 44, V.S.A. 1.

### Vermont Council of Independent Schools Members – 1/1/05 – 12/31/05

Kenneth D. Delorge  
Trinity Baptist School  
280 Trinity Drive  
Williston VT 05495  
878-8118

Ted Graf  
Gailer School  
4066 Shelburne Rd. #2  
Shelburne, VT 05482  
985-1276

Evelyn M. Rogerson  
St. Joseph School  
20 Allen Street  
Burlington VT 05401  
864-5623

Jared Cadwell  
PO Box 691  
Waitsfield VT 05673  
496-3295

Sr. Marianne Read, RSM  
1205 The Terraces  
Shelburne, VT 05482  
658-6110

Stephen Springer  
Country Sch. of Randolph Ctr.  
RD #1 Box 98  
Randolph Ctr. VT 05061  
728-9602

Robert Bracy, Jr.  
Mid Vermont Christian School  
399 West Gilson Road  
White River Jct, VT 05001  
295-6700

Mary Murphy, Vice Chair  
Bennington School  
192 Fairview Street  
Bennington, VT 05201  
447-1557

Richard Hilton, Chair  
Lyndon Institute  
Route 122  
Lyndon Center, VT 05850  
626-8162

2 vacancies



**ADDITIONAL VERMONT STATUTES**

**and**

**STATE BOARD OF EDUCATION RULES**

**RELATING TO INDEPENDENT SCHOOLS**

**(Listed alphabetically)**



## **COMPULSORY ATTENDANCE**

### **16 V.S.A. §1121**

#### **Attendance for Children of School Age Required.**

A person having the control of a child between the ages of six and sixteen shall cause the child to attend an approved public school, an approved or recognized independent school or a home study program for the full number of days for which that school is held, unless the child:

- 1) is mentally or physically unable so to attend; or
- 2) has completed the tenth grade; or
- 3) is excused by the superintendent or a majority of the school directors as provided in this chapter, or
- 4) is enrolled in and attending a postsecondary school, as defined in subdivision 176(b)(1) of this title, which is approved or accredited in Vermont or another state.

#### **Pupils over sixteen.**

### **16 V.S.A. § 1122**

A person having the control of a child over sixteen years of age who allows such child to become enrolled in a public school, shall cause such child to attend such school continually for the full number of the school days of the term in which he is so enrolled, unless such child is mentally or physically unable to continue, or is excused in writing by the superintendent or a majority of the school directors. In case of such enrollment, such person, and the teacher, child, superintendent and school directors shall be under the laws and subject to the penalties relating to the attendance of children between the ages of seven and sixteen years.

## **COURSE OF STUDY**

### **16 V.S.A. § 906**

Under 16 V.S.A. Section 906, public schools, approved and recognized independent schools, and home study programs must provide a minimum course of study. For purposes of this title the minimum course of study means learning experiences adapted to a pupil's age and ability in the fields of:

- 1) Basic communication skills including reading, writing and use of numbers.
- 2) Citizenship, history and government in Vermont and the United States.
- 3) Physical Education and comprehensive health education including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society. Subchapter 7, Comprehensive health education describes this course of study as a systematic and extensive

elementary and secondary educational program designed to provide a variety of learning experiences based upon knowledge of the human organism as it functions within its environment.

The term includes but is not limited to:

- A) Body structure and function including physical, psychosocial and psychological basis of human development, sexuality and reproduction;
  - B) Community health to include environmental health, pollution, public health, and world health;
  - C) Safety including first aid, disaster prevention and accident prevention;
  - D) Disease such as HIV infection, other sexually transmitted diseases, as well as other communicable diseases, and prevention or disease;
  - E) Family health and mental health, including instruction which promotes the development of responsible personal behavior involving decision making about sexual activity including abstinence, skills which strengthen existing family ties involving communication, cooperation and interaction between parents and students, and instruction to aid the establishment of strong family life in the future, thereby contributing to the enrichment of the community;
  - F) Personal health habits including dental health;
  - G) Consumer health including health careers, health costs and utilizing health services;
  - H) Human growth and development, including understanding the physical, emotional and social elements of individual development and interpersonal relationships including instruction in parenting methods and styles. This shall include information regarding the possible outcomes of premature sexual activity, contraceptives, adolescent pregnancy, child-birth, adoption, and abortion;
  - I) Drugs including education about alcohol, caffeine, nicotine and prescribed drugs; and
  - J) Nutrition.
- 4) English, American and other literature
  - 5) Natural sciences
  - 6) The fine arts

This minimum course of study should be described for each grade or level of instruction in the school or in the home study program as well as any adaptation necessary for creating a course of study that is age and ability appropriate.



## **CRIMINAL RECORDS CHECKS**

### **16 V.S.A. § 251-260**

Act 163 makes mandatory, effective January 1, 1999, the conduct of criminal records checks including FBI fingerprint record checks, for applicants for public and independent school employment as well as contractors and employees of contractors who work in the public and independent schools. It further expands the list of crimes for which a report will be made through the FBI check to include additional crimes of violence and sexual abuse or exploitation as well drug sales. This bill, particularly the record keeping portions thereof, is quite complex in order to deal with FBI and other confidentiality concerns so it is critical that all those leaders in a public or independent school in a position to employ or contract with persons understand its terms. The Act does grandfather persons employed on the date of its passage. However, it will be applied to persons who, although employed on the date of passage, subsequently experience a break in their employment of one year or more.

## **DISCIPLINE**

### **16 V.S.A. § 1161a**

- (a) Each public and each approved school shall have a policy on discipline. The policy shall include standard due process procedures, and it shall be consistent with this section and with the school board's policies on suspension and dismissal.
- (b) For the purpose of this chapter, corporal punishment means the intentional infliction of physical pain upon the body of a pupil as a disciplinary measure.
- (c) No person employed by or agent of a public or approved school shall inflict or cause to be inflicted corporal punishment upon a pupil attending the school or the institution. However, this section does not prohibit a person from using reasonable and necessary force:
  - (1) to quell a disturbance;
  - (2) to obtain possession of weapons or other dangerous objects upon the person of or within the control of a pupil;
  - (3) for the purpose of self defense; or
  - (4) for the protection of persons or property. Amended 1995, No. 35.

## **DRIVER TRAINING COURSE**

### **16 V.S.A. § 1045**

- (a) A driver education and training course, approved by the department of education and the department of motor vehicles shall be made available to pupils whose parent or guardian is a resident of Vermont and who have reached their fifteenth birthday and who are regularly enrolled in a public or independent high school approved by the state board.
- (b) After June 30, 1984, all driver education courses shall include a course of instruction, approved by the state board and the council on the effects of alcohol and drugs on driving.
- (c) All driver education courses shall include instruction on motor vehicle liability insurance and the motor vehicle financial responsibility laws of the state.

### **Arrangement; date**

### **16 V.S.A. § 1046**

Subject to the approval of the commissioner each superintendent of schools shall arrange for establishment of a driver education and training course for all public and approved independent schools located within his or her supervisory jurisdiction that so request.

## **EDUCATIONAL OCCUPANCIES**

National Fire Prevention Association  
Standard 101 - Life Safety Code

### **CHAPTER 10 NEW EDUCATIONAL OCCUPANCIES**

- 10-2.1.2 Rooms normally occupied by preschool, kindergarten, or first-grade pupils shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade pupils shall not be located more than one story above the level of exit discharge.

### **CHAPTER 11 EXISTING EDUCATIONAL OCCUPANCIES**

- 11-2.1.2 Rooms normally occupied by preschool, kindergarten, or first-grade pupils shall not be located above or below the story of exit discharge. Rooms normally occupied by second grade pupils shall not be located more than one story above the story of exit discharge.

## **FALSE ADVERTISING**

### **13 V.S.A. § 2005**

A person, firm, corporation or association, or an agent or employee thereof, who, with intent to sell courses of instruction or to dispose of merchandise, real estate, securities or service or to induce the public to enter into any obligations relating thereto, shall knowingly make, publish, circulate or place before the public on radio or television or in a newspaper, magazine or other publication or in form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, an advertisement or statement regarding educational advantages, merchandise, real estate, securities or service, which advertisement or statement shall contain anything untrue, deceptive or misleading, shall be fined not more than \$1,000.00.

- Amended 1967

## **GUN-FREE SCHOOLS ACT**

### **Possession of a weapon at school**

### **16 V.S.A. § 1166**

- (a) In this section, the terms “to school” and “weapon” shall have the same meaning that the terms have in the Gun-Free Schools Act of 1994. However, the school board may expand the definitions provided they remain consistent with the Gun-Free Schools Act.
- (b) Each school board shall adopt and implement policies regarding a student who brings a weapon to school which at a minimum shall include:
  - (1) A provision that any student who brings a weapon to school shall be referred to a law enforcement agency. In addition to any other action the law enforcement agency may take, it may report the incident to the department of social and rehabilitation services.
  - (2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a weapon to school. However, the school board may modify the expulsion on a case by case basis. Modifications may be granted in circumstances such as but not limited to:
    - (A) The pupil is unaware that he or she has brought a weapon to school.
    - (B) The pupil did not intend to use the weapon to threaten or endanger others.
    - (C) The pupil is disabled and the misconduct is related to the disability.
    - (D) The pupil does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.
- (c) Annually at a time and on a form determined by the commissioner, each superintendent shall provide the commissioner with a description of the circumstances surrounding expulsions imposed under this section, the number of students expelled and the type of weapons involved.

-----Added 1995, No.35.

**Memo from Janice E. Jackson, Acting Assistant Secretary  
United States Department of Education  
October 31, 1995**

**Question: Are private schools subject to the requirements of the Gun-Free Schools Act?**

Answer: Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who is enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing similar expulsions from the private school on a student who brings a weapon to school.

## **HARASSMENT**

### **Definition**

#### **16 V.S.A. § 11(26)**

“Harassment” means unlawful harassment which constitutes a form of discrimination. It means verbal or physical conduct based on a student’s race, creed, color, national origin, marital status, sex, sexual orientation or disability and which has the purpose or effect of substantially interfering with a student’s educational performance or creating an intimidating, hostile or offensive environment. Sexual harassment is also a form of unlawful harassment and means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- (A) Submission to that conduct is made either explicitly or implicitly a term or condition of a student’s education.
- (B) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.
- (C) The conduct has the purpose or effect of substantially interfering with a student’s educational performance or creating an intimidating, hostile or offensive educational environment.

## **HAZING**

### **Definition**

#### **16 V.S.A. § 140b**

- (a) “Hazing means any intentional, knowing or reckless act committed by a student, whether individually or in concert with others, against another student:
  - (1) in connection with pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization which is affiliated with the education institution; and
  - (2) which is intended to have the effect of, or should reasonably be expected to have the effect of, endangering the mental or physical health of the student.
- (b) Hazing shall not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals, provided that:
  - (1) the goals are approved by the educational institution; and
  - (2) the activity or conduct furthers the goals in a manner that is appropriate, contemplated by the educational institution, a normal and customary for similar programs at other educational institutions.
- (c) It shall be unlawful to:
  - (1) engage in hazing;
  - (2) solicit, direct, aid, or attempt to aid, or abet another person engaged in hazing, or
  - (3) knowingly fail to take reasonable measures within the scope of the person’s authority to prevent hazing.
- (d) it is not a defense in an action under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

### **Approved and Recognized Independent Schools**

#### **16 V.S.A. § 166(e)**

The board of trustees of an independent school operating in Vermont shall adopt harassment and hazing prevention policies, establish procedures for dealing with harassment and hazing of students and provide notice of these. The provisions of section 565 of this title for public schools shall apply to this subsection, except that the board shall follow its own procedures for adopting policy. -- Amended 1999, Adj.Sess. (e)

**A copy of a model anti-harassment policy is available from the Department of Education at (802) 828-5414.**

**Harassment and hazing prevention policies**  
**16 V.S.A. §565**

- (a) It is the policy of the state of Vermont that all Vermont educational institutions provide safe, orderly, civil and positive learning environments. Harassment, hazing and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.
- (b) Each school board shall develop, adopt and make available in the manner described under subdivision 563(1) of this title a harassment and hazing prevention policy which shall be at least as stringent as model policies developed by the commissioner. In this section, the definitions of education institution, organization, pledging, and student shall be the same as those in section 140a of this title.
  - (1) The harassment prevent policy shall include:
    - (A) A statement prohibiting unlawful harassment of a student.
    - (B) The definition of harassment pursuant to subdivision 11(a)(26) of this title.
    - (C) Consequences and appropriate remedial action for staff or students who commit harassment.
    - (D) A procedure that directs students and staff how to report violations and file complaints.
    - (E) A procedure for investigating reports of violations and complaints.
    - (F) A description of how the board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.
  - (2) The hazing prevention policy shall include:
    - (A) A statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited.
    - (B) A procedure that directs students and staff to report violations and file complaints.
    - (C) A procedure for investigating reports of violations and complaints.
    - (D) Circumstances under which hazing may be reported to a law enforcement agency.
    - (E) Appropriate penalties or sanctions, or both, for organizations which or individuals who engage in hazing, and revocation or suspension of an organization's permission to operate or exist within the institution's purview, if that organization knowingly permits, authorizes, or condones hazing.
    - (F) A description of how the board will ensure that teachers and other staff members receive training in preventing, recognizing and responding to hazing.
- (c) Each school district shall establish rules setting forth procedures for dealing with harassment and hazing of students which include:
  - (1) Annual designation of two or more people within the institution to receive complaints and a procedure for publicizing those people's availability.
  - (2) A procedure for publicizing the availability of the Vermont human rights commission and the federal Department of Education's Office of Civil Rights and other appropriate state and federal agencies to receive complaints of harassment.

- (3) A statement that acts of retaliation for reporting of harassment or for cooperating in an investigation of harassment is unlawful pursuant to subdivision 4503(a)(5) of Title 9.
- (d) Annually, prior to the commencement of curricular and co-curricula activities, the school board shall provide notice of the policy and procedures developed under this section to students, custodial parents or guardians of students, and staff members. Notice to students shall be in age-appropriate language and should include examples of harassment and hazing. At a minimum, this notice shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for the school. The board shall use its discretion in developing and initiating age-appropriate programs to effectively inform students and staff about the substance of the policy and procedures in order to help prevent harassment, and hazing.
- (e) The commissioner shall develop and, from time to time, update model harassment and hazing prevention policies.

## HEALTH, SAFETY AND ENVIRONMENTAL REGULATIONS

Public and independent schools are subject to the same health and safety standards. Information regarding these standards is available from the appropriate state agencies. There are three agencies that govern the areas of health, safety and environmental requirements for school houses. The addresses are listed on the following page and the general the agencies are as follows:

- |    |  |   |
|----|--|---|
| 1. | Department of Labor and Industry<br>National Life Office Building<br>Drawer 20<br>Montpelier, Vermont 05620<br>(802) 828-2106                | OR<br><br>Department of Environmental Conservation<br>Protection Divisions<br>103 South Main Street<br>Waterbury, Vermont 05671<br>(802) 241-3822 |
| 2. | Agency of Natural Resources<br>Department of Environmental<br>Conservation<br>324 North Main Street<br>Barre, Vermont 05641<br>(802) 479-362 | 3. Department of Health<br>General Information<br>108 Cherry Street<br>Burlington, Vermont 05401<br>1-800-464-4343                                |

The last agency is responsible for those aspects of water quality that effect drinking water. They can also assist in other health related requirements such as immunization.

### Other State Agencies - for technical assistance

School Development Team Department of Education 120 State Street Montpelier, Vermont 05620 (802) 828-5406	Department of Historic Preservation 58 East State Street Montpelier, Vermont 05602 (802) 828-3226
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For information on hazardous materials management in schools contact:

Association of Vermont Recyclers  
P.O. Box 1244  
Montpelier, Vermont 05602  
(802) 229-1833



To see if there are any regulations regarding schools that you should be aware of, before opening or constructing your school, the Department of Education also recommends that the schools contact their local agencies like the Town or City Clerk or the Board of Selectmen for further possible mandates. There may be local zoning and building code regulations to be satisfied, depending upon the community in which the school is located.

***Fire Prevention Division***

***-Central Office - Montpelier -***

Chief Fire Prevention Officer, Assistant State Fire Marshal	All Districts	828-2106 - Robert Howe
Administrative Assistant	Central Office	828-2106 - Donna Basford
Licensing Secretary (Electrical, Plumbing & TQP's)	Central Office	828-2107 - Bridgette Hebert
Chief of Licensing & Special Inspections	Montpelier Office	828-2106 - Richard Schlieder
	Rutland Office	786-5870
Plumbing Inspections	All Districts	786-5841 - Gerald "G.J." Garrow

<b><i>Montpelier</i></b>	<b>Main Office</b>	479-0623
	Regional Manager	479-0613 – Mike Desrochers
	Regional Assistant	479-0610 – Roberta Chatot
	Boiler Inspector	479-0615 – Wesley Crider
	Electrical Inspector	479-0621 – Wayne Dunlap
	Electrical Inspector	479-0616 – Joe Rutledge
	Assistant State Fire Marshal	479-0614 – Stan Baranowski
	Assistant State Fire Marshal	479-0618 – Paul Cerutti
	Assistant State Fire Marshal	479-0617 – Brad Charron
	Assistant State Fire Marshal	479-0619 – Bob Mackin
	Assistant State Fire Marshal	479-0620 – Ken Pease

<b><i>Rutland</i></b>	<b>Main Office</b>	786-5867
	Regional Manager	786-0073 – Butch Sutherland
	Regional Assistant	786-0078 – Christina Tuzzo
	Electrical Inspector	786-0071 – Steve Rorison
	Electrical Inspector	786-0072 – Peter Olney
	Assistant State Fire Marshal	786-5868 – Frank Cioffi
	Assistant State Fire Marshal	786-0070 – Robert Kilpeck
	Assistant State Fire Marshal	786-0075 – Michael Skaza

<b><i>Springfield</i></b>	<b>Main Office</b>	885-8883
	Regional Manager	885-8967 – Bruce Martin
	Regional Assistant	885-8963 – Euletta Veysey
	Electrical Inspector	885-8966 – Dave LaPlante
	Electrical Inspector	885-8965 – Dave Luce
	Assistant State Fire Marshal	885-8964 – James Kerston
	Assistant State Fire Marshal	885-8968 – Rene Garceau
	Assistant State Fire Marshal	885-8971 – Brian Johnson

<b><i>Williston</i></b>	<b>Main Office</b>	879-2300
	Regional Manager	879-2302 – Robert Patterson
	Regional Assistant	879-2301 – Jackie Connaway
	Boiler Inspector	879-2304 – Malcolm Wheel
	Electrical Inspector	879-2309 – Monte Mason
	Electrical Inspector	879-2307 – Jake Sartwell
	Assistant State Fire Marshal	879-2310 – Joe Benard
	Assistant State Fire Marshal	879-2306 – Chris Boyd
	Assistant State Fire Marshal	879-2305 – Michael Greenia
	Assistant State Fire Marshal	879-2303 – John Vergin

## **IMMUNIZATIONS**

### **Required Prior to Attending School**

#### **18 V.S.A. §1121**

Except as provided under V.S.A. section 114 of this title, no person may enroll as a student in a Vermont school, regardless of whether the student has been enrolled in the school during a previous school year, unless the appropriate school official has received a record or certificate of immunization issued by a licensed physician or a health clinic that the person has received required immunizations appropriate to age as specified by the Vermont Department of Health.

### **Exemptions**

#### **18 V.S.A. § 1122**

- A) A person may remain in school without a required immunization if:
- 1) the person, or in the case of a minor the person's parent or guardian, presents a written statement from a licensed physician, health clinic or nurse that the person is in The process of being immunized. The person may continue to attend school as long as the immunization process is being accomplished.
  - 2) a physician, licensed to practice in Vermont, certifies in writing that a specific immunization is, or may be detrimental, to the person's health, or is not appropriate.
  - 3) if the person, or in the case of a minor the person's parent or guardian, states in writing that the person, parent or guardian has religious beliefs or moral convictions opposed to immunization.
- B) The Health Department may provide by rule for further exemptions to immunization based upon sound medical practice.

### **Noncompliance**

#### **18 V.S.A. §1126**

The school board of each district or the board of trustees of each independent school, or the chief executive officer of each post-secondary school shall exclude from school any person not otherwise exempted under this subchapter who fails to comply with its provisions. No person shall be excluded for failure to comply with the provisions of this subchapter unless there has been a notification by the appropriate school authority of the noncompliance with this subsection, and of their rights under section 1122 of this title. In the event of exclusion, school officials shall notify the department of health and contact the parents or guardians in an effort to secure compliance with the requirements of this subchapter so that the person may attend school.

## LENGTH OF SCHOOL DAY AND YEAR

### State Board

#### Rule #:

**2310** Length of School Day and Year.

**2311 School Year.** The length of the school year shall be 175 student days unless waivers are granted by the Board as provided by 16 V.S.A. Section 1071.

**2311.1.1** Days lost because schools are closed for emergency reasons caused by snow, ice, rain or mud prior to February 1 of any year shall be rescheduled and made up during that school year when such closing will result in a schedule of less than 175 pupil attendance days for the year.

Petitions for waivers sought for other emergency causes, such as, fire, contagious disease or conditions of the school building will be considered on a case-by-case basis.

**2311.1.2** Petitions for waivers of the 175 student attendance days shall be submitted to the Commissioner's office within 10 days stipulated by law. Failure to do so will automatically require the district to make up the lost days.

**2311.1.3** Petitions received between February 1 and June 15 will be considered on a case-by-case basis. When a petition is sought for emergency causes, the Vermont State Board will consider the school district's calendar to determine if a substantial number of emergency days were included, particularly if the cause is inclement weather conditions.

**2311.1.4.** The Vermont State Board of Education strongly encourages districts to include a substantial number of emergency days as school calendars are developed and adopted. Historically, the Board views for five (5) emergency days as prudent planning by districts transporting pupils on school buses.

**2311.1.5** Beginning July 1, 1984, all school districts shall adopt an annual school calendar for the ensuing school year in accordance with the required 175 pupil attendance days plus five (5) emergency days. By exception, school districts not wholly dependent upon school busing to transport pupils may adopt school calendars with fewer than five emergency days, as long as historical precedent supports the number of planned emergency days.

**2311.2 Act of God.** The only other exceptions to the minimum length of day should be that the board of school directors has found it necessary to delay the opening of the school day by up to two hours or so to send the pupils home after school has begun due to emergency conditions because of an act of God, such as the outbreak of a contagious disease, hazardous weather, high water, unsafe highways, hurricane winds or a fire. Under such conditions the day may be counted as a full day of school.

**2311.3 Days of Mourning.** Whenever a National Day of Mourning falls on a regularly scheduled day of school (as shown in the local district school calendar), the day shall be counted as one of the official days of school for that community for the school year.

**2311.4 Length of School Day.** For kindergarten the day shall be a minimum of 2 hours, or 10 hours per week. For grades 1-2 the day shall be a minimum of 4 hours, or 20 hours per week, including recess, excluding lunch. For grades 3-8 the day shall be a minimum of 5 1/2 hours or 27 1/2 hours per week, including recess, excluding lunch. For grades 9-12 the day shall be a minimum of 5 1/2 hours or 27 1/2 hours per week, exclusive of the time allowed for lunch and recess periods. \*

\* The Enclosed rules are for information purposes only. The law states “substantially equivalent”. The rules are for comparison only.

## **SCHOOL SAFETY PRACTICES**

By law, the text of all state statutes relating to school safety practices shall be printed in every public school register, and shall be furnished in writing to teachers in independent schools. These safety practices include fire drills; safety patrols, school buses, qualifications of school bus driver and finally suspected child abuse.

## **CHAPTER PRINTED IN REGISTERS**

### **16 V.S.A. §1483**

This chapter shall be printed in such manuals or handbooks as may be prepared for the guidance of teachers in a school or institution subject to the provisions thereof.

## **FIRE DRILLS**

### **16 V.S.A. § 1481**

- (A) The principal or person in charge of a public or independent school or educational institution, other than a university or college, shall drill the pupils so that they may be able to leave the school building in the shortest possible time and without panic or confusion.
- (B) Such drills shall be held at least once in each month during the school year and a record of the date and time of such fire drills, together with the time consumed in vacating the building, shall be kept in the official school register and such register shall be open at all times for inspection by representatives from the department of labor and industry or the department of education.
- (C) A principal or person in charge of such school or institution who willfully neglects to comply with the provisions of this section shall be fined not more than \$20.00.

## **SAFETY PATROLS**

### **16 V.S.A. § 1482**

- (A) In the exercise of authorized control and supervision over pupils attending schools and other educational institutions in this state, both public and private, the Board of School Directors or other directing authority of any such school or institution may organize and supervise school safety patrols and the appointment, with the permission of parents, of pupils as members thereof, for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than at regular crossings, and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe.
- (B) Such Board of School Directors or other directing authority shall obtain and keep in force adequate accident insurance to protect pupils acting as safety patrols during the performance of their services.
- (C) The Commissioner of Public Safety shall, upon the request of a board of school directors or other directing authority of any public or independent educational institution, assign an officer or officers of the state police to assist such school authorities in the organization and supervision of school safety patrols, advise and make recommendations concerning the elimination of traffic hazards endangering the safety of school children, and otherwise assist in promoting safety education the schools of the state. Within the appropriation of his department the Commissioner of Public Safety shall furnish such equipment, materials and supplies as he may deem necessary for the proper functioning of the school safety patrols. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic.
- (D) Liability shall not attach either to the school, educational institution, governing board or any individual director, trustee, superintendent, teacher, or other school authority, parent or any sponsor, sponsoring organization or representative thereof, or to the Department of Public Safety or to any individual member thereof, by virtue of the organization, maintenance or operation of such a school safety patrol and school safety patrol field day activity organized, maintained and operated

under the authority of this section because of injuries sustained by any pupil or person, whether a member of the patrol or otherwise, by reason of the operation and maintenance thereof.

## **SCHOOL BUS DEFINED**

### **23 V.S.A. 4 (34).**

"Type I School Bus" means any motor vehicle with motive power except a trailer, used to carry more than 16 pupils for school purposes. This definition includes vehicles that are at any time used to carry school children and school personnel exclusively, and does not include vehicles that only carry school children along with other passengers as part of the operations of a common carrier.

"Type II School Bus" means any motor vehicle used to carry sixteen or less pupils for school purposes, except a private motor vehicle used to carry members of the owner's household.

However, a private motor vehicle

- A) used to carry pupils without compensation shall not be considered a Type II School Bus;
- B) carrying from seven or sixteen pupils inclusive for compensation shall be subject to all Type I School Bus safety and equipment standards, except:
  - 1) those requirements prescribed in divisions (2) and (3) of V.S.A. 1283 (A) of this title,
  - 2) the aisle or door requirement prescribed in subdivision (8) (A) of V.S.A. 1281 of this title, and
  - 3) the rear door requirement prescribed in division (1) of V.S.A. Section 1281 of this title; provided that if no rear door is present, there shall be one additional door, operable from inside the vehicle, located to the rear of the operator.
- C) carrying up to six persons for compensation need only display an identification sign as prescribed in V.S.A. Section 1283 (a) (1) of this title, and be equipped with a simple system of at least two red alternating warning lights.

## **QUALIFICATIONS OF SCHOOL BUS DRIVERS**

### **23 V.S.A. §1282 (a).**

Before a person may be licensed or relicensed to assume the duty of transporting school pupils in either a Type I or Type II school bus, s/he shall, as a minimum:

- 1) have a valid State of Vermont driver's license with a school bus driver's endorsement;
- 2) furnish the Department of Motor Vehicles a certificate signed by a registered physician that s/he is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his/her duties;
- 3) have completed training in school bus operation, including evacuation and emergency procedures, as the Commissioner deems necessary;
- 4) be licensed for Type I and Type II (or both); Type I being an automatic qualification for a Type II operator.

**(For further information on school bus requirements, see the Vermont School Bus Driver's Manual, available through the Department of Motor Vehicles.)**

## **SPECIAL EDUCATION**

### **State Board**

#### **Rules #:**

2363.11 IEP requirements for placements by school districts in independent schools or tutorial programs

- (a) Before a school district places a student eligible for special education services in, or refers a student to, an independent school or a tutorial program, the school district shall initiate and conduct a meeting to develop an IEP for the student.
- (b) The school district's placement shall be at no cost to the parents and the independent school or tutorial program shall provide an education that meets the standards that apply to education provided by the local school district.
  - (1) Placements by school districts in independent schools shall be in schools that have been approved according to Rule 2228.
  - (2) Placements by school districts in tutorial programs shall be in programs that have been approved according to Rule 2230.
- (c) The school district shall ensure that a representative of the independent school or tutorial program either attends the meeting or is able to participate by other methods including individual or conference telephone calls.
- (d) After a child with a disability enters an independent school or a tutorial program, any meetings to review and revise the student's IEP may be initiated and conducted by the school or tutorial program in accordance with the written agreement as entered into in conformance with Rule 2228.4.2. If the independent school or tutorial program initiates and conducts these meetings, the school district shall ensure, to the extent required by Rule 2363.5, that an LEA Representative is involved in any decision about the student's IEP and agrees to any proposed changes in the IEP before those changes are implemented. Parent attendance shall be required and documented as set forth in Rule 2363.5.
- (e) When an independent school or a tutorial program implements a student's IEP, responsibility for compliance with the special education regulations with respect to that student remains with the school district.
- (f) A child placed in an independent school or a tutorial program by a school district shall retain all of the rights of a child on an IEP who is attending a public school.



## 2368 Children with Disabilities Enrollment by Their Parents in Independent Schools and in Home Study

### 2368.1 Independent School Placements

As used in Rules 2368.1.1 – 2368.1.13, “independent school children with disabilities” means children who are eligible for special education who are enrolled by their parents in recognized or approved independent schools including religious schools. This section does not apply to children who are placed in independent schools by school districts pursuant to IEPs or to students who attend independent schools pursuant to Rule 2368.3(b)(2).

#### 2368.1.1 Child-Find

Each school district shall locate, identify, and evaluate all independent school children with disabilities residing in that school district. Each school district shall consult with representatives of independent schools and parents of children with disabilities residing in the district on how to go about child-find in a mode that is comparable to activities undertaken with respect to child-find for children in public schools.

#### 2368.1.2 Child-Count

Each school district shall consult with representatives of independent school children residing in the district to determine how to conduct an annual count of the number of independent school children with disabilities. Only those parentally-placed independent school children who actually receive services pursuant to a services plan shall be included in the count.

#### 2368.1.3 Minimum Expenditures

Each school district shall determine the proportion of independently placed school children with disabilities in the district compared to the district’s total special education child count. The district shall apply this proportion to its IDEA grant awards for children aged 3-21 and children aged 3-5 and use at least those amounts of money to provide special education services to independent school children. Expenditures for child-find, including individual evaluations, are the responsibility of the public school any may not be considered in determining whether a school district has met its responsibility to spend the minimum amount.

#### 2368.1.4 No Right to FAPE for Children with Disabilities Placed by Their Parents at Independent Schools

No parentally-placed child shall be deemed to have an entitlement to a FAPE in an independent school. Where services are provided by a school district, they shall be provided at the discretion of the school district. The school district shall offer to make a FAPE available in the event the child is placed in public school. Additionally, the school district shall be prepared to develop an IEP for such child if he or she re-enrolls in public school.

#### 2368.1.5 Services Determined

- (a) Prior to making any decision that affects services for independent school children with disabilities, a school district shall consult with representatives of independent schools where resident children attend with respect to—
  - (1) Which children will receive services;
  - (2) What, how and where services will be provided; and
  - (3) How the provided services will be evaluated.
- (b) The consultation shall give appropriate representatives of the independent schools referenced in subsection (a), above a genuine opportunity to express their views about how services will be provided, where and to whom.
- (c) The school district shall make the final decisions with respect to the services to be provided to eligible children placed in independent schools by their parents.

#### 2368.1.6 Services Plan

If services are to be provided by a school district to a child enrolled unilaterally by his or her parent in an independent school, the school district shall develop a services plan that describes the specific special education and related services to be provided. With respect to the services to be provided, the services plan must be developed, reviewed and revised consistent with the requirements for IEPs in Rules 2363-2363.10.

#### 2368.1.7 Location of Services; Transportation

Services may, but need not, be provided at a child's independent school. When special education services are provided pursuant to a services plan, and transportation is necessary for the child to benefit from the offered services:

- (a) Transportation shall be provided by the school district between the child's school or home and the site where services will be provided.
- (b) When the timing of services require it, transportation must be provided from the service site or independent school to the child's home, depending on the timing of the services.
- (c) A school district shall not be required to provide transportation from a child's home to an independent school.
- (d) The cost of transportation may be included in the amount the school district must spend on services for children in independent schools.

#### 2368.1.8 Separate Classes Prohibited

A school district may not use IDEA or state special education funds for classes that are organized separately on the basis of school enrollment or religion of the students if:

- (a) The classes are at the same site; and
- (b) The classes include students enrolled in public schools and students enrolled in independent schools.

### 2368.1.9 Funds May Not Benefit an Independent School

While a school district may use funds to provide special education and related services to students enrolled in independent schools, it may not use its funds to finance the existing level of instruction in an independent school or to otherwise benefit the independent school.

### 2368.1.10 Use of Public and Independent School Personnel to Provide Services

- (a) A school district may use IDEA funds to make public school personnel available in other than public facilities
  - (1) To the extent necessary to provide services pursuant to these Rules for independent school children with disabilities; and
  - (2) If those services are not normally provided by the independent school.
- (b) A school district may use IDEA funds to pay for the services of an employee of an independent school to provide services to independent school children placed by parents pursuant to these Rules if—
  - (1) The services are performed outside the employees' regular hours of duty;
  - (2) The services are performed under the supervision and control of the public school; and
- (c) The employee performing the services meets the same standards as personnel providing those services in the public school.

### 2368.1.10.1 Property, Equipment and Supplies Used for the Benefit of Independent School Children

- (a) A school district shall keep title to and exercise continuing administrative control with respect to property, equipment and supplies that are to be used for the benefit of independent school children with disabilities.
- (b) Equipment and supplies may be placed in an independent school for the period of time needed to provide services to such children, and may be used only for the purpose of providing such services. Equipment and supplies shall be removed from the independent school when:
  - (1) They are no longer needed, or
  - (2) Removal is necessary to avoid unauthorized use of equipment and supplies that are to be used for the benefit of independent school children with disabilities.
- (c) No IDEA or state special education funds may be used for repairs, minor remodeling, or construction of independent school facilities.

## 2368.1.11 Complaints

Independent school children with disabilities have the right to a due process hearing only for the purposes of pursuing complaints that a school district has failed to meet its responsibilities with regard to child-find, including following procedures for evaluation and determination of eligibility. All other complaints may be pursued by way of the State Department of Education's administrative complaint procedure.

## 2368.1.12 Placement of Children by Parents if FAPE is at issue

- (a) School districts are not required to pay for the cost of education, including special education and related services, of a child eligible for special education at an independent school or facility, or a home schooling program, if the school district has offered to make a FAPE available to the child and the parents elected to place the child in an independent school or facility or a home schooling program.
- (b) Disagreements between a parent and a school district regarding the FAPE for the child, and the question of financial responsibility, are subject to dispute resolution procedures set forth in Rules 2365.1.1 through 2365.1.12.
- (c) If the parents of a child eligible for special education, who previously received special education and related services under the authority of a school district, enroll the child in an independent preschool, elementary, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the school district to reimburse the parents for the cost of that enrollment, if the court or hearing officer finds that the school district had not made a FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the school district.
- (d) The cost of reimbursement described in paragraph (c) of this section may be reduced or denied—
  - (1) If—
    - (i) At the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the school district to provide a FAPE to their child, including stating their concerns and their intent to enroll their child in an independent school at public expense; or
    - (ii) At least ten business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the school district of the information described in paragraph (d)(1)(i) of this section;
  - (2) If, prior to the parents' removal of the child from the public school, the school district informed the parents, through notice, of its intent to evaluate the child (including a statement the purposes of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

- (3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.
- (e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement may not be reduced or denied for failure to provide the notice if—
  - (1) The parents is illiterate or cannot write in English;
  - (2) Compliance with paragraph (d)(1) of this section would likely result in physical or serious emotional harm to the child;
  - (3) The school prevented the parent from providing the notice; or
  - (4) The parents had not received notice of the notice requirement in paragraph (d)(1) of this section.

#### 2368.1.13 School Districts Without a Public School

A school district that does not maintain a public school or has not designated, in accordance with 16 V.S.A. §827, an approved independent school at the grade level needed by a resident student eligible for special education, shall provide the student a free appropriate public education. All special education evaluations, planning and due process procedures, as required by these rules and by federal law, shall be made available to students who are referred for a special education evaluation or who are eligible for special education and to their parents. The location for the IEP services shall be determined in the following manner:

- (a) The choice of a specific school(s) appropriate to fulfill the IEP, including the requirements educate the student in the least restrictive environment, shall be determined by a student's IEP team after the IEP is developed. If the IEP team does not reach consensus about the location of services, the LEA Representative shall determine the location of services. This shall be communicated to the parents within five working days of this determination.
- (b) If the parents choose to have their child served, pursuant to his or her IEP, at a school other than that selected by the IEP team or by the LEA Representative, and the IEP team agrees that the IEP can be adequately implemented at the school chosen by the parents, the following shall be applicable:
  - (1) Public School – If the parents select a public school, the district shall pay any special education tuition or excess costs allowed by law.
  - (2) Independent School—
    - (i) If the parents select an independent school approved for special education purposes that is generally attended by regular education students that a non-special education student from the school district could choose to attend, the district shall fund the actual costs associated with the parents' placement minus any costs that would accrue to the parents of a non-special education student placed at the same school.

- (ii) If the parents select an independent school not generally attended by regular education students, the district shall pay the actual educational costs associated with the parents' placement to the amount that would have been spent on the school chosen by the IEP team provided the school selected by the parents is approved for special education purposes.

## **SUSPECTED CHILD ABUSE AND NEGLECT; REMEDIAL ACTION 33 V.S.A. SECTION 683**

- A) Any physician, surgeon, osteopath, chiropractor or physician's assistant licensed or registered under the provisions of Title 26, any resident physician, intern or any hospital administrator in any hospital in this state, whether or not so registered, and any registered nurse, licensed practical nurse, medical examiner, dentist, psychologist, school teacher, social librarian, day care worker, school principal, school guidance counselor, mental health professional, social worker, probation officer, or police officer who has reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made in accordance with the provisions of V.S.A. 684.
- B) Any other concerned person not listed in subsection (a) who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of V.S.A. 684.
- C) Any person enumerated in subsections (a) or (b) who in good faith makes a report shall be immune from liability for libel or slander which might otherwise be incurred or imposed as a result of making a report.
- D) The name of the person making the report, or any person mentioned in the report, shall be confidential unless the person making the report specifically requests disclosure or unless a judicial proceeding results therefrom or unless a court, after a hearing, finds probable cause to believe that the report was not made in good faith and orders the Department to make the name available.

The central office number for the Social & Rehabilitative Services is (802) 241-2131.

## **TUITION TO APPROVED SCHOOLS, AGE, APPEAL 16 V.S.A. §828**

A school district shall not pay the tuition of a pupil except to a public or independent school or tutorial program approved by the state board, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

## **SPECIAL EDUCATION APPROVAL OF INDEPENDENT SCHOOLS**

Below are the State Board of Education rules for Independent Schools who want to be approved for special education. Note: Schools must have general independent school approval before being approved for special education.

**For more information contact:**

Special Education Independent Schools  
Vermont Department of Education  
120 State Street  
Montpelier, Vermont 05620  
(802) 828-5414

**2228 Special Education Approval of Independent Schools.**

2228.1 (1) In order for an in-state independent school to receive approval for purposes of Rules 2224.2 and 2228.2 and 16 V.S.A. 2958(e), it must obtain general independent school approval pursuant to Rule 2200, and also receive approval for special education purposes from the State Board of Education that its staff, programs and facilities meet state and federal special education standards.

(2) Limitation of Special Education Approval.

Each special education approval may be limited to one or more categories of disability, as defined in Rule 2362.1, according to the services the school provides.

(3) Out-of-state Programs.

Unless otherwise determined by the Vermont State Board of Education, in order for an out-of-state independent school to be approved for special education purposes by the Vermont State Board of Education, it must be approved by the host state for the purpose of providing special education and related services to children with disabilities within that state. Any limitation by the host state on an independent school's special education approval, such as by category of disability served, or other comparable standard, shall also apply to the school's special education approval in Vermont.

**2228.2 (1) Placement Prohibition.**

No responsible agency, as defined by Rule 2360.2, shall make a special education placement in an independent school that has not been approved for special education purposes unless the placement is pursuant to:

(a) subsection (2) of this rule,

- (b) a court order, or
- (c) due process order pursuant to Rule 2364.3.5

Nor shall such a placement be made in an independent school that serves special education students who are in a category of disability different from that under which the student was determined to be eligible for special education.

(2) Exceptional Circumstances - Approval Process

Upon application by a responsible agency, the Commissioner may permit, in exceptional circumstances, a special education placement in an independent school that is approved pursuant to Rule 2200 but has not received approval for special education purposes pursuant to Rule 2228.1. Rule 2366.2.2(7) notwithstanding, in instances in which the Commissioner grants such approval, tuition and other associated otherwise allowable costs shall be reimbursable under subchapter 2 or Chapter 101 of Title 16 of the Vermont Statutes Annotated. Any person aggrieved by the Commissioner's decision may file an appeal with the State Board of Education pursuant to 16 V.S.A. §828.

- (a) Exceptional circumstances exist when:
  - (i) after reasonable efforts, the LEA cannot locate an appropriate public or independent school approved for special education purposes pursuant to Rule 2228.1 to serve students with the category of disability under which the student was determined to be eligible for special education;
  - (ii) the proposed placement is deemed appropriate by the student's IEP participants
- (b) The Commissioner may specify conditions under which the placement is to be carried out.

2228.3 In order to obtain special education approval, an independent school shall meet standards that apply to state and local education agencies. This shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate, in at least the following areas:

- (1) admissions;
- (2) least restrictive environment;
- (3) discipline;
- (4) graduation;
- (5) faculty qualifications; and
- (6) faculty-student ratios, including ratios that meet the Vermont School Quality Standards for the direct provision of special education and related services or consultation regarding the provision of special education and related services to publicly-placed students on IEPs;



2228.3.1 In order to obtain special education approval, an independent school shall coordinate with sending responsible agencies, parents, public agencies and other service providers serving a student by:

- (1) maintaining educational records and disclosing them to the sending responsible agency and the student's parents;
- (2) participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services;
- (3) implementing IEPs; and
- (4) providing prior notice to the sending LEA regarding the need for a change in a student's program or placement, including long-term suspension or expulsion.

These practices shall be evidenced by the maintenance and implementation of written policies or procedures, as appropriate.

2228.3.2 An independent school shall satisfy the state licensure requirements for personnel who are responsible for the provision or supervision of special education and related services.

2228.4 Written Agreements Required.

2228.4.1 Agreement as to Costs.

In order to obtain special education approval, an independent school shall assure the State Board of Education that prior to enrolling a publicly-placed student who is served pursuant to an IEP, it will enter into a written agreement with the sending responsible agency that outlines tuition, room, board and other costs associated with the student's attendance. For students on an IEP who are placed by a state agency or a designated community mental health agency, or any other agency defined by the Commissioner, in accordance with 16 V.S.A. §2948, the agreement shall be with the Commissioner of Education. In the instance of an emergency placement, such provisions may be agreed upon within thirty days of the student's enrollment.

2228.4.2 Agreement as to Non-Instructional Services.

In order to obtain special education approval, an independent school shall assure the State Board of Education that within thirty days of enrolling a publicly-placed student who is served pursuant to an IEP, it will enter into written agreement with the sending responsible agency as to the division of responsibility for performance of non-instructional services, including compliance with special education procedural requirements. For students placed by a state agency or a designated community mental health agency, or another agency defined by the Commissioner, this agreement shall be with the local educational agency that has educational planning responsibility for the student.

2228.5 Special Education Approval Procedures.

- (1) Application for special education approval shall be made at the time of application under Rule 2200. An independent school that has already obtained independent school approval from the State Board of Education may at any time submit an application for special education approval to the Commissioner.
- (2) Application for special education approval shall be submitted in writing to the Commissioner in accordance with the format prescribed by the Commissioner.
- (3) The procedures for special education approval shall be the same as those for approval in accordance with Rules 2222.1 through 2222.7. To the extent possible, these procedures shall occur simultaneously.

2228.6 After receiving approval for special education purposes, an independent school shall notify the Commissioner of any significant changes to its special education program, professional staff, governance, financial capacity or facilities. The Commissioner may, upon such notification, gather additional information from the school, including by means of a site visit. As a result, the commissioner may return to the State Board for a change in the school's approval for special education purposes. If the Commissioner petitions the State Board for a change to an independent school's approval for special education purposes, the Council of Independent Schools and the subject independent school shall be notified and have an opportunity to be heard by the State Board. If the school disagrees with the proposed change to its approval for special education purposes, the Board shall hear the matter in accordance with the requirements of Rule 1230, et seq.

2228.7 Independent schools that are approved for special education purposes shall be deemed to offer a minimum standard of service to a student, as required by 16 V.S.A. 2973, if those services are offered according to a written agreement with the sending responsible agency, as required by Rule 2228.4.

2228.8 Rate Approval for Independent Schools Approved for Special Education Purposes.

- (1) Each independent school approved for special education purposes by the State Board of Education shall annually report its rates for special education tuition, related services and room and board to the Commissioner on a form prescribed for that purpose.
- (2) The rates that an independent facility approved for special education purposes charges for tuition, related services and room and board shall be no more than the costs that are reasonably related to the level of services provided to its publicly-placed special education students. Reasonable relationship shall be determined by utilizing generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

- (3) The Commissioner shall review each special education approved independent school's annual rate report. If the Commissioner concludes that a special education approved independent school's rates are not reasonably related to the level of services provided to publicly-placed special education students, the Commissioner shall make a determination as to the maximum rate that public schools and the State Department of Education would pay to the independent school for those services and offer the school an opportunity for explanation regarding why the maximum rate the Department would pay is not adequate. If the explanation is not satisfactory to the Commissioner, he or she shall notify the Council for Independent Schools and shall refer the matter to the State Board of Education.
  - (a) Upon such referral by the Commissioner, the Board shall conduct a formal proceeding in accordance with the requirements of Rule 1230, et seq.
  - (b) The State Board's determination shall be final.
- (4) Time lines for rate approvals from the Department
  - (a) To have a new rate approved for the ensuing school year, an independent school shall submit a request for rate approval with supporting documentation to the Department prior to November 15. The Commissioner shall notify the independent school of the results of the review on or before January 15.
  - (b) If a request for a new rate approval is not submitted by November 15, the most recent approved rate will be in effect until the following November 15, when the next rate request is due.

2228.9 The Vermont State Board of Education shall afford the opportunity for approved independent schools to participate in the development and revision of State standards that apply to independent schools.

## **VERMONT STATUTE FOR INDEPENDENT SCHOOL TUITION RATES**

### **Independent School Tuition Rates 16 V.S.A. §2973**

The commissioner shall establish minimum standards of services for students receiving special education in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the department and school districts for tuition, room and board based on level of services and may advise independent schools as to the need for certain special education services in Vermont.

- (b) Neither school districts nor any state agency shall pay rates for tuition, room and board for students receiving special education in schools outside Vermont, that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the commissioner.
- (c) The state board is authorized to enter into interstate compacts with other states to regulate the rates for tuition, room and board for students receiving special education in independent schools. —Added 1989, No. 230 (Adj. Sess.), §28; 1991, No. 24 §11.

For Independent Schools with Special Education Approval

## **WRITTEN AGREEMENTS FOR NON-INSTRUCTIONAL SERVICES**

In order to obtain special education approval, an independent school shall assure the State Board of Education that within thirty days of enrolling a publicly-placed student who is served pursuant to an IEP, it will enter into written agreement with the sending responsible agency as to the division of responsibility for performance of non-instructional services, including compliance with special education procedural requirements. For students placed by a state agency or a designated community mental health agency, or another agency defined by the Commissioner, this agreement shall be with the local educational agency that has educational planning responsibility for the student.

### **General Areas to be Addressed:**

When students who are eligible for special education are enrolled in independent schools, the independent school accepts some responsibility for protecting the due process rights of its students. The responsibility that procedural requirements have been met rests with the sending school district (LEA). However, it is also the responsibility of the independent school to enable the sending LEA to meet its legal responsibility. The written agreement specifies the role that the Independent School plays in carrying out the procedural requirements of the activities listed below.

Referrals - This applies to schools which enroll students who are not eligible for special education and refers to the process by which the sending LEA is notified of an in-school referral for evaluation, accommodations or special education services, or other instructional support.

Evaluations - This refers to the division of responsibility for initiating meetings, conducting evaluation procedures, and writing reports.

IEPs - This refers to the division of responsibility for initiating annual reviews, other IEP related meetings, and the completion of the state required IEP form. It may also include reference to participation in the development of reintegration plans, transition plans, graduation, and multi-year plans, when appropriate.

Prior written notice of proposed change or refusal of change (Form 9) – A school district must provide written notice to parents before it proposes to initiate or change or refuses to initiate or change a student's identification, evaluation, educational placement on the division of special education services.

If a student is due to graduate with a regular high school diploma or will be attaining the age when his/her entitlement to a FAPE ends, there is no requirement to conduct a special education evaluation. The school district shall send a notice to the student and his/her parent(s) that a change of placement is scheduled to occur and give the reasons why.

Utilization of State Forms - This refers to the decision by the independent school about the utilization of the State Forms or ways in which the independent school's documentation procedures can be coordinated with the LEA responsibility for using the State Forms.

**Written Agreement Requirements:**

All written agreements for non-instructional services should clearly state that the independent school:

- 1) abides by the Family Education Rights and Privacy Act (FERPA) requirements for confidentiality and the maintenance of educational records,
- 2) abides by the Special Education requirements regarding the destruction of records, and
- 3) will not expel a student who is publicly-placed unless the Evaluation and Planning Team has determined that the misbehavior is not related to the category of disability or there is an IEP written which calls for a different placement.

**Individual Student Considerations:**

Sometimes the written agreement will contain additional statements relating to specific conditions of a student's program. Examples of situations which may warrant such statements are listed below.

Training or consultation for specific programmatic areas.

Conditions surrounding the employment of individual aides for students.

Reassigning responsibility of particular components of the IEP (e.g. interagency planning for transition plans).

Communicating with parents in their native language.

Any other procedural requirements.

## **Guidelines for Written Agreements for Tuition**

Written agreements are required by State Board rule 2228.4.1 for the purpose of clarifying the services provided for a student in exchange for the tuition and other costs charged. These agreements are the responsibility of the Independent School and are between the Independent School and the Local Education Agency (LEA).

Following are the required components of the written agreements:

Name of Independent School.

Name of Local Education Agency or specify Vermont Department of Education.

Name of Student.

Amount of Tuition.

Services Provided - Refer to whether the services are educational and residential. Specify whether this tuition includes all of the services in the IEP or which services are or are not included.

Additional Costs - (Remember these must be approved in your rates) - Specify these costs and the services which these cover.

The Department has not yet developed its final position on some practices of independent schools including collecting down payments for damage accounts, medical accounts, student allowances, and recreation expenses. In addition, current practices concerning refunds of tuition upon student withdrawal are being reviewed. These issues will be addressed through the rate approval process and will require discussion with the Department.

## **COST AGREEMENTS FOR PUBLICLY FUNDED STUDENTS**

### **REFUNDS**

The three issues to be addressed with respect to refunds are: what portion of the prepaid tuition is refunded to the sending LEA if a student is withdrawn; is the amount of the refund affected by who initiates the withdrawal, i.e. student, parent, LEA or independent school; and, is any tuition refunded as the result of a prolonged absence? We believe that the following are sound and fair policies:

1. If a student's withdrawal is initiated by the student, the student's parent(s), or the sending LEA, tuition collected for the period commencing thirty days after the effective date of the withdrawal will be refunded to the sending LEA.
2. If a student's withdrawal is initiated by the independent school, tuition collected for the period commencing after the effective date of the withdrawal will be refunded to the sending LEA.
3. If a student is absent for more than 30 consecutive days in a school year, tuition collected for the period commencing on the thirty-first day will be refunded to the sending LEA, unless the independent school is providing services to the student during the period of absence. In such case, the refund is prorated, by agreement between the independent school and the sending LEA, according to the amount, type, and location of service being provided.

### **STUDENT ACCOUNTS**

The two issues to be addressed with respect to students accounts are: which of these costs can be reasonably expected to be borne by the sending LEA and which by the parent; can contributions to student accounts be required without denying a student's right to a free and appropriate public education? We believe that the following represent sound and fair policies:

1. Contributions into allowance, damage, medical and recreation accounts may be required so long as the student is not denied a free and appropriate public education as the result of a parent's unwillingness or inability to make such a contribution.
2. The sending LEA would contribute to these accounts only after the IEP team has determined that the services accessed via these accounts constitute a related service for the student.
3. Deposits to accounts which are only used if needed, e.g. damage or medical, must be held in an interest bearing account and returned with interest at the end of the school year or when the student withdraws.

We further recommend the following:

1. Independent schools establish flexible payment plans for student accounts.
2. Independent schools note in their Written Agreements for Cost the additional charges required for student accounts.



## **SPECIAL EDUCATION APPROVAL OF INDEPENDENT SCHOOLS**

### **APPLICATION FORM**

Date: \_\_\_\_\_

Name of School:

Address:

Name of Contact Person: \_\_\_\_\_ Telephone Number:

Grades Served: \_\_\_\_\_ Age Levels:

For State Board Rule 2228.1(1), please submit a description of how special education and related services are provided. Also describe accommodations that are standard to your program. Attach a copy of your school's daily and weekly schedule. Include any changes to the schedule that are not noted as vacations or holidays on your school calendar; e.g. trips, camping, retreats, etc.

For State Board Rule 2228.1(2), please indicate the categories of disability that the school is seeking special education approval for:

_____ Learning impairment	_____ Orthopedic impairment
_____ Specific learning disability	_____ Other health impairment
_____ Visual impairment	_____ Autism
_____ Deafness or hard of hearing	_____ Traumatic brain injury
_____ Emotional disturbance	_____ Deaf-blindness
_____ Speech or language impairment	_____ Multiple disabilities

For State Board Rule 2228.3, please submit written policies or procedures in the following areas: (with suggestions of how implementation could be verified during the visit)

1. Admissions
2. Least Restrictive Environment
3. Discipline
4. Graduation
5. Faculty-student ratios including ratios that meet the Vermont School Quality Standards for the direct provision of special education and related services or consultation regarding the provision of special education and related services to publicly-placed students on IEPs.
6. Written Agreements

Attach is a list of each publicly-placed student currently enrolled, the agency which placed the student (SRS, MH, LEA) and the LEA responsible for FAPE, if different from the placing agency.

For State Board Rule 2228.3.1, please submit statements and/or descriptions of ways in which you coordinate with sending responsible agencies, parents, public agencies and other service providers as evidenced by the maintenance and implementation of written policies or procedures in the following areas: (with suggestions of how implementation could be verified during the visit)

1. Maintaining educational records and disclosing them to the responsible agency and the student's parents, unless restricted by statute, court order, or other legally binding document specifically revoking these rights.
2. Participating in evaluation procedures and in the development of IEPs, including plans for reintegration and transition services.
3. Implementing IEPs.
4. Providing prior notice to the sending LEA regarding the need for a change in a student's program or placement, including long-term suspension or expulsion.

For State Board Rule 2228.3.2, please provide the following information for each staff person providing special education services:

1. His or her name and qualifications
2. The special education service(s) he or she provides
3. The number of publicly placed students who receive special education from this teacher
4. How the special education responsibilities of the teacher are supervised.

For State Board Rule 2228.4.1, attach a copy of the school's standard written agreement form for tuition, room, board, and other costs associated with the student's attendance.

For State Board Rule 2228.4.2, attach sample written agreements regarding the division of responsibility for performance of non-instructional services that your school has developed with sending agencies. Non-instructional services include the conducting of comprehensive evaluations, the development of IEPs, the conducting of annual review meetings, and the arrangement for related services which are not part of the special education program described.

# **FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)**

## **REGULATIONS ARE FOUND AT 34 CFR 99.1**

### **Definitions of Importance (99.3)**

“Directory Information: means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student’s name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

“Education Records”

(a) The term means those records that are—

- (1) Directly related to a student; and
- (2) Maintained by an educational agency or institution or by a party acting for the agency or institution.

(b) The term does not include—

- (1) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- (2) Records of a law enforcement unit of an educational agency or institution, but only if education records maintained by the agency or institution are not disclosed to the unit, and the law enforcement records are—
  - (i) Maintained separately from education records;
  - (ii) Maintained solely for law enforcement purposes; and
  - (iii) Disclosed only to law enforcement officials of the same jurisdiction;
- (3) (i) Records relating to an individual who is employed by an educational agency or institution, that—
  - (A) Are made and maintained in the normal course of business

October, 1992

## **Model FERPA Policy \***

We believe that the keeping of accurate and appropriate education records on students is a necessary part of a sound educational program. Furthermore, we believe that the information contained in students' education records belongs primarily to the students and/or their parent, parents or guardians. The school, as trustee of this information, maintains these records for the educational guidance and/or welfare of the students. We adopt the following:

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### **CONFIDENTIALITY STATEMENT**

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The principle of confidentiality underlies all policies and procedures for the collection, maintenance, disclosure and destruction of education records. Education records entrust information to others and as such obligate those others to safeguard and to protect the confidentiality of any personally identifiable information.

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Students' records are the property of the district but shall be available in an orderly and timely manner to students and parents. A parent or adult student may challenge any information in a student record believed to be inaccurate, misleading or in violation of the privacy or other rights of the student.

Student records shall be forwarded to other school agencies to which the student has enrolled or intends to enroll upon request. Parental consent shall be required before the district may release student records to other organizations or individuals, excepting directory information as specified in the procedures section of this policy or as otherwise allowed by law.

When a student reaches the age of majority, the rights accorded to and consent required of the parent under this policy shall only be accorded to and required of the student.

The superintendent shall establish procedures governing the content, management, and control of student records and shall be responsible for the consistent procedural implementation of this policy. The procedures shall abide by all federal and state laws and regulations governing the collection, maintenance, disclosure and destruction of education records.

\* procedures are separate from policy

**Reg. 300.502 Opportunity to examine records.**

The parents of a handicapped child shall be afforded, in accordance with the procedures in Regs. 300.562-300.569 an opportunity to inspect and review all education records with respect to:

- (a) The identification, evaluation, and educational placement of the child, and
- (b) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(A))

**Reg. 300.506 Impartial due process hearing.**

(a) A parent or a public educational agency may initiate a hearing on any of the matters described in Reg. 300.504(a)(1) and (2).

(b) The hearing must be conducted by the state educational agency or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the State educational agency.

(c) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if:

- (1) The parent requests the information; or
- (2) The parent or the agency initiates a hearing under this section.

(20 U.S.C. 1415(b)(2))

*Comment.* Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by the statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of handicapped children, and the provision of a free appropriate public education to those children. Mediations have been conducted by members of State educational agencies or local educational agency personnel who were not previously involved in the particular case. In many cases, mediation leads to resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay a parent's rights under this subpart.

**Confidentiality of Information****Reg. 300.560 Definitions.**

As used in this subpart:

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Education records" means the type of records covered under the definition of "educational records" in Part 99 of this title (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

"Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained, under this part.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.561 Notice to parents.**

(a) The State educational agency shall give notice which is adequate to fully inform parents about the requirements under 300.128 of Subpart B, including:

(1) A description of the extent to which the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under section 438 of the General Education Provisions Act and Part 99 of this title (the Family

**EDUCATION OF THE HANDICAPPED REGULATIONS - EXCERPTS****APPENDIX C**

Educational Rights and Privacy Act of 1974, and implementing regulations).

(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents through the State of the activity.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.562 Access rights.**

(a) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under this section includes:

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

(c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(20 U.S.C. 1412(2)(D); 1417(c))Reg. 300.563

**Record of access.**

Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.564 Records on more than one child.**

If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(20 U.S.C. 1412(2)(D); 1417 (c))

**Reg. 300.565 List of types and locations of information.**

Each participating agency shall provide parents on request a list of the types of locations of education records collected, maintained, or used by the agency.

**Reg. 300.566 Fees.**

(a) A participating education agency may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) A participating agency may not charge a fee to search for or to receive information under this part.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.567 Amendment of records at parent's request.**

(a) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating agency which maintains the information to amend the information.

(b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the agency decides to refuse to amend the information in accordance with the request it shall

**EDUCATION OF THE HANDICAPPED REGULATIONS - EXCERPTS****APPENDIX C**

inform the parent of the refusal, and advise the parent of the right to a hearing under §300.568.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.568 Opportunity for a hearing.**

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.569 Result of hearing.**

(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must:

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.570 Hearing procedures.**

A hearing held under §300.568 of this subpart must be conducted according to the procedures under §99.22 of this title.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.571 Consent.**

(a) Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement under this part.

(b) An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title.

(c) The State educational agency shall include policies and procedures in its annual program plan which are used in the event that a parent refuses to provide consent under this section.

(20 U.S.C. 1412(2)(D); 1417(c))

**Reg. 300.572 Safeguards.**

(a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(b) One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §300.129 of Subpart B and Part 99 of this title.

(d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(20 U.S.C. 1412(2)(D); 1417(c))

(a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without the limitation.

(20 U.S.C. 1412(2)(D); 1417 (c))

*Comment:* Under §300.573, the personally identifiable information on a handicapped child may be retained permanently unless the parents request that it be destroyed. Destruction of records is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. In informing parents about their rights under this section, the agency should remind them that the records may be needed by the child or the parents for social security benefits or other purposes. If the parents request that the information be destroyed, the agency may retain the information in paragraph (b).

#### **Reg. 300.574 Children's rights.**

The State educational agency shall include policies and procedures in its annual program plan regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

(20 U.S.C. 1412(2)(D); 1417(c))

*Comment:* Note that under the regulations for the Family Educational Rights and Privacy Act (34 CFR 99.4(a)) the rights of parents regarding education records are transferred to the student at age 18.

#### **Reg. 300.575 Enforcement.**

The State educational agency shall describe in its annual program plan the policies and procedures, including sanctions, which the State uses to insure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met.

(20 U.S.C. 1412(2)(D); 1417(c))

Reg. 300.576 Department.

If the Department or its authorized representatives collect any personally identifiable information regarding handicapped children which is not subject to 5 U.S.C. 552a (The Privacy Act of 1974), the Secretary shall apply the requirements of 5 U.S.C. section 552a (b)(1)-(2), (4)-(11); (c); (d); (3)(1); (2); (3)(A), (B), and (D), (5)-(10); (h); (m); and (n), and the regulations implementing those provisions in Part 5b of this title.

(20 U.S.C. 1412(2)(D); 1417(c))



**VERMONT DEPARTMENT OF EDUCATION  
MONTPELIER, VERMONT 05620**

**200 \_\_\_\_\_ -200**

**RECOGNIZED INDEPENDENT SCHOOL COVER SHEET**

Name of School: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Grades \_\_\_\_\_ (If you use an alternative to a graded system please describe below  
or on separate sheet(s) if necessary.)

\_\_\_\_\_  
\_\_\_\_\_

Name of Chief Education Officer and/or Contact Person

\_\_\_\_\_

Name of Public School Supervisory Union

\_\_\_\_\_

\*\*\*\*\*

**STATEMENT OF HOURS AND DAYS**

Education Activities Regularly Begin at \_\_\_\_\_ and regularly end at \_\_\_\_\_

Total School Days \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

# **RECOGNIZED INDEPENDENT SCHOOL STATEMENT OF OBJECTIVES**

In the space below, or on a separate sheet, state the objectives of the school.

**RECOGNIZED INDEPENDENT SCHOOL  
STATEMENT OF MINIMUM COURSE OF STUDY**

In the space below, or on a separate sheet of paper, state the minimum course of study for each level taught.

## **RECOGNIZED INDEPENDENT SCHOOL STATEMENT OF ASSESSMENT PROCEDURES**

In the space below or on a separate sheet of paper describe how the annual assessment of each pupil will be performed.

## **RECOGNIZED INDEPENDENT SCHOOL STATEMENT OF ASSURANCES**

In making this report to the Commissioner, the school makes the following assurances:

A)the school will prepare and maintain attendance records for each pupil enrolled or regularly attending classes;

B)at least once each year the school will assess each pupil's progress and will maintain records of that assessment, and present the results of that assessment to each student's parent or guardian;

C)the school will have teachers and materials sufficient to provide the minimum course of study;

D)the school's educational program will include the minimum course of study set forth in section 906 of this title; and

(E)the school will meet such state and federal laws and regulations concerning its physical facilities and health and safety matters as are applicable to recognized independent schools.

**Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**INDEPENDENT SCHOOL CALENDAR**

SCHOOL YEAR 200\_\_ - 200\_\_

SCHOOL \_\_\_\_\_ GRADES \_\_\_\_\_

ADDRESS \_\_\_\_\_ TELEPHONE \_\_\_\_\_

\_\_\_\_\_ ZIP \_\_\_\_\_

*WRITE IN THE DATES SCHOOL IS SCHEDULED TO BE IN SESSION*

SEPTEMBER 200\_\_

M T W T F

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OCTOBER 200\_\_

M T W T F

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NOVEMBER 200\_\_

M T W T F

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DECEMBER 200\_\_

M T W T F

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JANUARY 200\_\_

M T W T F

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FEBRUARY 200\_\_

M T W T F

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MARCH 200\_\_

M T W T F

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APRIL 200\_\_

M T W T F

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MAY 200\_\_

M T W T F

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JUNE 200\_\_

M T W T F

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JULY 200\_\_

M T W T F

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AUGUST 200\_\_

M T W T F

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The TOTAL SCHOOL DAYS scheduled is \_\_\_\_\_.

This form must  
be  
NOTARIZED



Vermont Department of Education  
Office of Licensing and Professional Standards  
120 State Street  
Montpelier, VT 05620-2501  
(802) 828-2445

## OATH

I do solemnly swear (or affirm) that I will support the Constitution of the United States  
and the State of Vermont and the Laws of the United States and of the State  
of Vermont

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

To be valid this must be completed by a  
notary public.

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title